IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 27.11.2025
PRONOUNCED ON : 18.12.2025

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.A.No.902 of 2012

Executive Officer,
Slangapalayam Town Panchayat,
Bhavani Main Road,
Erode District – 638 455. ... Appellant

Vs.

G.K.Palanisamy ... Respondent

PRAYER: Criminal Appeal is filed under Section 378(4) of Criminal Procedure Code, to allow the appeal and to set aside the order acquitting the respondent passed by the learned Judicial Magistrate, Bhavani in S.T.C.No.630 of 2009 dated 28.07.2010 and convict the respondent.

For Appellant : Mr.Haja Naziruddin,
Additional Advocate General for
Mr.C.Selvaraj

For Respondent : Mr.S.Bharanidharan

JUDGMENT

The appellant, Executive Officer of Salangapalayam Town Panchayat, Erode District filed a complaint before the learned Judicial Magistrate, Bhavani (trial Court) in S.T.C.No.630 of 2009 against the respondent *viz.,* Correspondent of T.N.K Matriculation School, Muthukoundanputhur, Erode District for violation of Tamil Nadu District Municipalities (Amendment) Act, 1994 (TN Act 25 of 1994) [Rule 36(1) in Schedule-IV]. The trial Court by judgment dated 28.07.2010 dismissed the complaint acquitting the respondent, against which, the present Criminal Appeal is filed.

2.Learned Additional Advocate General for the appellant submitted that the trial Court failed to note that the respondent's Educational Institution is neither approved by the appellant Panchayat Council nor functions purely on philanthropic lines rather it is a commercial institution driven by financial interest, hence, the respondent not exempted from property tax. The trial Court failed to note that several notices prior to distraint warrant issued to the respondent, but the respondent never approached the appellant seeking time for payment of property tax nor challenged demand notice and distraint warrant. The appellant followed the procedures as per Tamil Nadu District

Municipalities Act, 1920 and filed a complaint, examined witnesses PW1 & PW2 and marked exhibits Exs.P1 to P4. The trial Court found three days time granted to the respondent to pay the property tax is not proper, further levying the property tax every half-year is not as per procedure, the assessee can pay the property tax within 30 days from the date of commencement of the next half-year. In this case, the respondent failed to pay the property tax within 30 days period, hence notice issued giving three days time which is not required and it was only an additional opportunity and hence, it cannot be faulted with.

3.He further submitted the trial Court failed to consider that the Government in G.O.Ms.No.110 dated 23.06.2008 enhanced the property tax with respect to different sectors and for commercial establishment property, tax can be enhanced up to 150%. The respondent collected fees and never functioned the institution on philanthropic lines. Though the appellant could have fixed 150% following the said GO, but only enhanced 75% only taking into consideration the attendant circumstances. The respondent is not exempted from property tax and the respondent's plea that the school run by a Trust and they fall under the purview of philanthropic lines, is not proper.

The trial Court without considering these aspects and on a wrong appreciation, dismissed the complaint. To prove the case, the appellant examined two witnesses *viz.,* PW1, Secretary of Salangapalayam Town Panchayat and PW2, the Junior Assistant of said Town Panchayat and marked four documents *viz.,* Ex.P1/show cause notice, Ex.P2/photocopy of distraint warrant, Ex.P3/office copy of distraint warrant and Ex.P4/despatch register. PW1 in his evidence deposed that he demanded property tax for the year 2008-09 a sum of Rs.48,838/-, the respondent not paid property tax, hence show cause notice dated 17.03.2009 issued, despite service of notice, the property tax not paid, finally on 23.03.2009 distraint warrant issued. PW2, Junior Assistant in his evidence confirms that distraint warrant could not be executed since the students were attending the examination and property could not be attached and distraint warrant affixed in the compound wall. Hence, it is proved that the respondent not paid property tax for the year 2008-09 and thereby violated the provision of Tamil Nadu District Municipalities (Amendment) Act, 1994, but the trial Court not considered the evidence and materials produced and on wrong appreciation dismissed the complaint.

4.Learned counsel for the respondent submitted that the respondent is the Correspondence of an Educational Institution *viz.,* T.N.K Matriculation School, Muthukoundanputhur, Erode District, which is run by Kulalar Education Trust. The said Educational Institution functioning using the funds of the Trust, students studying there are from the rural areas and remote villages. The fees determined by the Government alone collected and the school not run for business and publicity motive. The salary to the Teachers, Transportation Expense, Building Maintenance, Library and playground facilities all maintained by the school from the funds provided by the Trust. From the year 1999, as per Rule 15, the respondent granted exemption to pay the property tax. Further, within Salangapalayam Town Panchayat, there are ITI colleges and several Educational Institutions, no demand for property tax raised against them. Only for ulterior motive, the respondent is targeted. Considering all these aspects and finding that with ulterior motive, show notice issued giving only three days, thereafter distraint warrant issued and appellant cannot attach the property, an Educational Institution, primarily a philanthropic act serving poor and neglected, the trial Court rightly dismissed the complaint by relying upon the decision of this Court.

5.In support of his submissions, learned Additional Advocate General relied on the decision of this Court in the case of "***A.Subramanian Managing Trustee of Merit Educational Charitable Trust-cum-Principal of Merit Matriculation School vs. The Executive Officer, III Grade Municipality*** reported in ***2010 (4) CTC 31***" and in the case of "***Sriram Educational Trust Vs The President, Thiruvallur Taluk & District*** reported in ***2008 (1) CTC 449***". Hence, the judgment of the trial Court needs no interference and the appeal to be dismissed.

6.At this stage, learned Additional Advocate General submitted that earlier exemption granted, later it was withdrawn since the Town Panchayat found the school collected fees and running on commercial basis, in the name of the development and other charges, huge fees collected by the respondent. Considering all these aspects, the appellant not granted any exemption to the respondent educational institution and a show cause notice issued, the respondent refused to receive the notice, thereafter, distraint warrant issued and also affixed on the wall of the school. All procedures contemplated under the Act and Rules, followed in this case. Not responding to the notice and distraint warrant showing total defiance, the respondent committed the offence and complaint filed. The trial Court without considering all these aspects and on a flimsy ground dismissed the complaint.

7.He further submitted that now Amendment brought in Tamil Nadu District Municipalities Act, 1920 in the year 2018, authorising to charge property tax to Educational Institutional which was challenged in W.P.Nos.18008 of 2019 batch and the same was dismissed. The appellant is very much within its right to demand property tax from the respondent Educational Institutions. He further submitted that as regards disputed period raised in the complaint *i.e.,* 2008-09, there is some ambiguity, further years passed by, hence, the appellant is not serious in pursuing the appeal and after the Amendment brought in the Act, the respondent is now bound to pay the property tax.

8.On the submissions of the learned Additional Advocate General, it is seen that now the demand for 2008-09 property tax of Rs.48,838/- is not seriously pursued by the appellant.

9.As regards the appellant's claim that the respondent is now duty-bound to pay property tax after 2018 Amendment and placing reliance on the order of this Court in W.P.Nos.1362 & 10363 of 2013 dated 20.07.2022, now it is for the appellant to cause a demand for property tax pursuant to the Amendment brought in the Act.

10.With the above observation, this Criminal Appeal stands disposed of.

18.12.2025

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes
vv2

To

1.The Judicial Magistrate,
Bhavani.

2.The Executive Officer,
Slangapalayam Town Panchayat,
Bhavani Main Road,
Erode District – 638 455.

M.NIRMAL KUMAR, J.

vv2

Crl.A.No.902 of 2012

18.12.2025