

Crl.O.P.(MD) No.504 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	16.09.2025
Pronounced on	18.09.2025

CORAM

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.O.P.(MD) No.504 of 2024

and

Crl.M.P.(MD) Nos.305 & 306 of 2024

1.Tirunelveli Municipal Corporation,
S.N.High Road,
Tirunelveli – 1,
Rep. by its Commissioner
Thakare Shubham Dnyandeorao.

2.A.Sivakrishnamurthy,
Commissioner,
Tirunelveli Municipal Corporation,
S.N.High Road, Tirunelveli – 1.

... Petitioners

Vs.

S.P.Muthuraman

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of Code of Criminal Procedure, 1973/Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the records pertaining to the case in C.C.No.2493 of 2023 on the file of the learned Judicial Magistrate No.IV, Tirunelveli and quash the same.



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For Petitioners : Mr.B.Saravanan, Senior Counsel
for Mr.D.Kirubakaran

For Respondent : Mr.I.Pinaygash

ORDER

This Criminal Original Petition has been filed to quash the private complaint lodged by the respondent before the learned Judicial Magistrate No.IV, Tirunelveli and the cognizance taken in C.C.No.2493 of 2023 for the offences under Sections 24 and 25 of the Water (Prevention and Control of Pollution) Act, 1974 [hereinafter referred to as 'Act'], punishable under Sections 43 and 44 of the said Act, against the petitioners.

2. The allegation in the private complaint against the petitioners is that the first petitioner is the Municipal Corporation and the second petitioner is its Commissioner; that, in contravention of Section 24 of the Act, the Corporation had let sewage water into the Thamirabarani River [hereinafter referred to as 'River'], which supplies drinking water to the residents of five surrounding Districts at five different places; and that they had installed Decentralized Wastewater Treatment Systems (DEWATS) at few places without obtaining permission from the Tamil Nadu Pollution Control Board and thus committed the aforesaid offences.

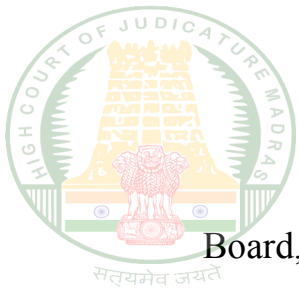


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3. Mr.B.Saravanan, the learned Senior Counsel for the petitioners, submitted that the impugned prosecution is *mala fide*; that the complaint suffers from suppression of material facts; and that, in any case, no offence has been made out on the allegations.

4. Elaborating the aforesaid submissions, the learned Senior Counsel for the petitioners submitted that the respondent/complainant, on similar allegations, had earlier approached the National Green Tribunal, South Zone, Chennai [hereinafter referred to as 'the Tribunal'] in O.A.No. 191 of 2015, seeking several reliefs, including a direction to restrain the first petitioner from letting out sewage water into the river and to take action against the petitioners; that, on 17.01.2020, the Tribunal passed an order constituting a committee of five members, including a Senior Scientist from the Tamil Nadu Pollution Control Board, to remediate the pollution caused to the river and to suggest an action plan to prevent further pollution; that the committee suggested a temporary action plan to provide for treatment systems employing DEWATS technology at eight locations; that the said action plan was recorded in the subsequent order of the Tribunal dated 21.01.2021; that the Tamil Nadu Pollution Control



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Board, by communication dated 11.10.2021 addressed to the second petitioner, ordered to rectify certain defects pointed out in the DEWATS installed at various places by the petitioners; that the Tribunal finally passed an order on 27.04.2022 directing the Chief Secretaries of all States to ensure implementation of the mechanism called 'National River Rejuvenation Mechanism (NRRM)' and also to ensure compensation to the victims and prosecution against the offenders; and that, suppressing all these facts, the respondent filed the private complaint, making it appear as if the petitioners had installed DEWATS without obtaining permission from the Tamil Nadu Pollution Control Board.

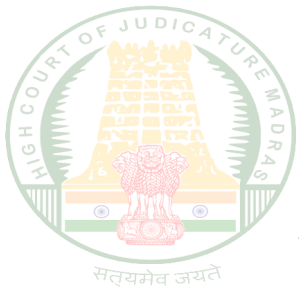
5. Mr.I.Pinaygash, the learned counsel for the respondent, per contra, submitted that the respondent had objected to the establishment of DEWATS in the Thamirabarani River as it is not a successful mechanism to treat sewage; that an inspection was conducted by two Hon'ble Judges of this Court on 10.11.2024, and they had observed that the DEWATS technology is not effective to treat sewage outfalls and there are difficulties in maintaining it regularly; that, on an RTI application, the Tamil Nadu Pollution Control Board had responded stating that no permission was granted to the petitioners for the installation of DEWATS



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and, therefore, the petitioners have committed the aforesaid offences under Sections 24 and 25 of the Act, punishable under Sections 43 and 44 of the said Act; and that the learned Judicial Magistrate had elaborately considered the complaint and, for valid reasons, took cognizance of the same, and hence, the impugned prosecution is not liable to be quashed. He further submitted that merely because the respondent had not disclosed the proceedings initiated by the Tribunal on his complaint, the present complaint cannot be quashed, since the proceedings of the Tribunal have nothing to do with the crime committed by the petitioners.

6. The primary allegation against the petitioners is that they had let out sewage into the Thamirabarani River in violation of Section 24 of the Act and had installed DEWATS without obtaining permission from the Tamil Nadu Pollution Control Board. The private complaint was filed by the respondent on 22.11.2022 and cognizance was taken on 13.12.2023. In the cognizance order, the learned Judicial Magistrate recorded that the petitioners had installed DEWATS in 10 places without obtaining permission from the Tamil Nadu Pollution Control Board and had let out sewage into the river.



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7. The respondent had accused the petitioners of the very same violations and had approached the Tribunal by filing O.A.No.191 of 2015.

The prayer sought by the respondent before the Tribunal, which was recorded in the order passed by the Tribunal on 17.01.2020, is as follows:

"To restrain the 6th and 8th respondents from using the river Tambraparani as a source for disposal of the sewage from the residential as well as industrial areas of Tirunelveli;

To order the 4th respondent to initiate legal action against the 8th respondent under Section 49(1)(a) of the Water (Prevention and Control of Pollution) Act;

To direct the 1st respondent to monitor and regulate the process of clearing the garbage and effluent from the river Tambraparani and also to issue suitable directions to the respondents 3 to 5 for the maintenance of good environment throughout the entire stretch of river Tambraparni;

To direct the 2nd respondent to take appropriate action against the 4th respondent for his failure in adhering to the provisions of Water Act, 1974."

8. By the very same order dated 17.01.2020, the Tribunal directed the constitution of a joint committee as follows:

"So, considering the circumstances, we feel it appropriate to constitute a joint committee, comprising of (1) District Collector, Tirunelveli, (2) Senior Officer of



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Central Pollution Control Board (3) Executive Engineer, Public Works Department/WRO, Tirunelveli Division (4) Senior Scientist, Tamil Nadu Pollution Control Board and (5) Commissioner, Tirunelveli Municipal Corporation to look into the issue regarding pollution in Thambraparni river stretch and steps taken by them to remediate pollution caused to Thambraparni river, as directed by the Principal Bench of the National Green Tribunal, New Delhi and monitor the water quality of the river, including TDS, BOD, COD, Total Coliform, Faecal Coliform and other hazardous metals and also specify as to whether discharge of untreated effluents or sewage still continues, thereby polluting river and if so, what is the action taken by local authorities to curtail the same. If there is any action plan prepared by the government in this regard and if so, what is the stage of its implementation etc., and submit factual and action taken report in this regard so as to ascertain the success in preventing pollution of river Thambraparni and make it pollution free and potable source of drinking water for the general public. This report has to be filed within two months before this Tribunal through e-mail @ngtszfilng@gmail.com. Tamil Nadu Pollution Control Board will be nodal agency for coordination and they will provide logistics for this purpose.”

9. Thereafter, the committee consisting of a Senior Scientist from the Tamil Nadu Pollution Control Board suggested a treatment system employing DEWATS technology for disposal of sewage. After recording the suggestions made by the committee, the Tribunal passed a subsequent order dated 21.01.2021 with the following observations and directions:



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“10. The Committee as well as Tiruneveli Corporation are directed to submit the further report as well progress of their work and also in compliance with the directions mentioned above to this Tribunal on or before 24.03.2021 by e-filing in the form of searchable PDF/OCR Support PDF and not in the form of Image PDF along with necessary hardcopies to be produced as per rules.

11. In the mean time, the Tamil Nadu State Pollution Control Board (TNPCCB) is also directed to monitor the progress of the work and submit their independent report regarding the change in the water quality on account of any temporary measures taken by the Tirunelveli Corporation to avoid such things being happening, so that this Tribunal can ascertain as to whether the temporary measures provided is sufficient to meet the situation till permanent long term action place is implemented.”

10. Thereafter, it appears that on 11.10.2021, the Tamil Nadu Pollution Control Board inspected the DEWATS installed by the petitioners and suggested certain remedial measures to be taken. Therefore, the Tamil Nadu Pollution Control Board was aware of the installation of DEWATS by the petitioners and had acknowledged the same in its communication dated 11.10.2021 addressed to them.

12. After receiving the reports, on 27.04.2022, the Tribunal also issued the following directions:



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“39. Our directions are summed up as follows:

(i) In the light of observations in Para 38 above, MoJS may devise an appropriate mechanism for more effective monitoring of steps for control of pollution and rejuvenation of all polluted river stretches in the country. The said mechanism may be called "National River Rejuvenation Mechanism" (NRRM) or given any other suitable name. NRRM may also consider the observations with regard to setting up of National/State/District Environment Data Grid at appropriate levels as an effective monitoring strategy.

(ii) Chief Secretaries of all States/UTs and PCBs/PCCs must work in mission mode for strict compliance of timelines for commencing new projects, completing ongoing projects and adopting interim phyto/bio-remediation measures, failing which compensation in terms of earlier orders be deposited with the MoJS, to be utilised in the respective States as per action plan to be approved by the NRRM. Other steps in terms of action plans for abatement of pollution and rejuvenation of rivers, including preventing discharge or dumping of liquid and solid waste, maintaining eflow, protecting floodplains, using treated sewage for secondary purposes, developing bio-diversity parks, protecting water bodies, regulating ground water extraction, water conservation, maintaining water quality etc. be taken effectively. The process of rejuvenation of rivers need not be confined to only 351 stretches but may be applicable to all small, medium and big polluted rivers, including those dried up.

(iii) The Chief Secretaries of all States/UTs may personally monitor progress at least once every month and the NRRM every quarter.



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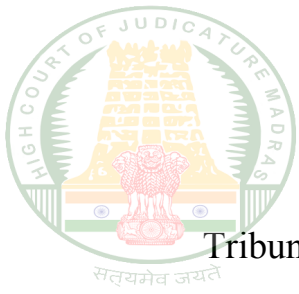
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(iv) Directions of this Tribunal in earlier order, the last being dated 21.9.2020 are reiterated.

(v) The NRRM and the Chief Secretaries of all the States/UTs may take into account the observations in Paras 24 to 38 above.

(vi) In view of discussion in para 38 above, it is made clear that accountability for failure to comply with the direction for payment of compensation will be of the concerned Chief Secretaries under Sections 25, 26, 28 and 30 of the NGT Act, 2010. The MoJS or any other aggrieved person will be free to take remedies by way of initiating prosecution or execution.”

13. These are the relevant orders passed by the Tribunal at the instance of the respondent. Suppressing all these material facts, the respondent chose to file the impugned complaint, making it appear as if no action had been taken by the petitioners for controlling sewage and that the petitioners had installed DEWATS without proper permission from the Tamil Nadu Pollution Control Board. As stated earlier, DEWATS was installed by the petitioners on the suggestion of the committee, which included a Senior Scientist of the Tamil Nadu Pollution Control Board. The Board had also inspected the DEWATS and suggested rectification of certain defects. That apart, the Chief Secretary was also directed by the



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Tribunal to monitor the implementation of the directions of the National Green Tribunal in its final order dated 27.04.2022.

14. If the respondent was genuinely aggrieved by any violation of the order passed by the National Green Tribunal (NGT), he should have either complained to the NGT or followed the mechanism provided by the NGT for dealing with such violations. The respondent has not chosen to approach the NGT. Instead, he has filed this complaint, making it appear as if it was a simple case of violation of the Act, when the petitioners have acted in terms of the order of the NGT. Even assuming that the order of the NGT has been violated, as stated earlier, the respondent ought to have approached the NGT.

15. In such circumstances, this Court is of the view that the impugned complaint, besides being guilty of suppression of material facts, is *mala fide* and an abuse of the process of law. Accordingly, the impugned complaint in C.C.No.2493 of 2022 on the file of the learned Judicial Magistrate No.IV, Tirunelveli, is quashed.



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16. Therefore, this Criminal Original Petition is allowed.

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Consequently, the connected Miscellaneous Petitions are closed.

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Index: Yes/ No

Neutral Citation: Yes / No

Speaking Order/Non Speaking Order

Copy To:

The Judicial Magistrate No.IV,
Tirunelveli.



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SUNDER MOHAN, J.

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Pre-Delivery Order made
in
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