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Crl.O.P.(MD)No.22833 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.22833 of 2024

and

Crl.M.P(MD)Nos.14313 & 14314 of 2024

1.Kalangaraiyan

2.Rameshbabu

3.Gurusamy

4.Narayanan

5.Natarajan

.. Petitioners /
Accused 1 to 5

Vs.

1.The State represented by
The Inspector of Police,
Manur Police Station,
Tirunelveli District.
(FIR No.371 of 2023)

.. Respondent/
Complainant

2.Susheel Petter

.. Respondent/
Defacto Complainant



Crl.O.P.(MD)No.22833 of 2024

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to C.C.No.564 of 2024 on the file of the learned Judicial Magistrate No.V, Tirunelveli and quash the same as against the petitioners are concerned.

For Petitioners : Mr.M.Karthikeya Venkitachalapathy
For Respondents : Mr.A.Thiruvadi Kumar
Additional Public Prosecutor for R.1

ORDER

This Criminal Original Petition has been filed seeking to quash the case in C.C.No.564 of 2024 on the file of the learned Judicial Magistrate No.V, Tirunelveli, as against this petitioners.

2. The petitioners / accused A.1 to A.5 facing trial in C.C.No.564 of 2024 for offences under Section 147, 291 and 353 of IPC has filed this quash application.

3. The case against the petitioners is that on 07.08.2023 at about 12.30 noon under the leadership of the first petitioner around 150 people had assembled in front of the Panchayat union office and raised voice in the name of protest, abused the public servants who were working in the



Panchayat Office and deter the public servants from discharge from their duties. The Commissioner, Panchayat Union Office, Manur had lodged a complaint and a case under Sections 147, 291 and 353 of IPC has been registered. The defacto complainant made further allegation that for the financial year 2022-2023, a project was approved to draw water from Siluvai Kovil Temple tank of Alavanthan Kulam, store the same in the overhead tank and thereafter, supply it for public. This project was approved on 02.01.2023. Thereafter, the official approval was given on 14.03.2023 and the work order was released on 02.08.2023. Earlier when the pipeline was laid there was objection from the villagers. Therefore, a peace committee meeting was convened and in the peace committee meeting it was agreed that villagers would not protest and they would allow the project so that all the villagers are benefited. However, they obstructed the project work and gathered before the Panchayat office and shown criminal force and deterred the public servants from discharging duty. They also unlawfully assembled and caused nuisance to the public and public transport.

4. The contention of the petitioners is that the petitioners being a villager earlier objected when the project was in the initial stage. On the



ground that if water is drawn from the village temple tank, it would affect the ground water level and they would be deprived of water for their usage. Hence, they objected taking water from the village temple tank water in huge quantity and taken to overhead storage tank and thereafter it has been supplied to other villagers. Earlier they have given a petition but no action has been taken and the project was about to be executed. Hence to show their protest they assembled in front of the Panchayat Union office and raised slogans. Assembling and raising slogans in a democratic manner cannot be projected as if the petitioners have committed any offence.

5. The learned Additional Public Prosecutor appearing for the first respondent submitted that on the complaint of Municipal Commissioner a case has been registered. The petitioners in this case have been spreading false propaganda to the innocent and obstructing the project. The availability of water resources in the Well by drawing the water from the Well has been considered and assessed and after detailed study only the project was approved. It is a Government project, which has to be completed within a stipulated period, otherwise the funds granted would get lapsed and project would get stalled. The petitioners with ulterior



motive, taking advantage of the innocence of the villagers, assembled and raised slogans to stall the project by all means. Earlier there was a peace committee meeting in which it was resolved that villagers would co-operate for the completion of the project and it is only for the benefit of all the villagers, contrary to the same the petitioners have assembled and raised slogans and objected the work.

6. Further they have stated that the Panchayat union office will not be allowed to function. Hence the case has been registered. Now after investigation list witnesses LW1 to LW8 were examined and materials have been been collected.

7. Considering the submission made and perusal of the materials, it is seen that the petitioners along with 150 villagers had assembled to show their protest in drawing water from the village temple Well and storing it in the overhead tank and distributing to other villagers. Their apprehension is that water level would get deplecated due to the huge drawl of water. They would be denied of water and drought condition would prevail. They earlier given representation in this regard but no action has been taken. They have shown their protest in a democratic way



and exercised their democratic right. The officials, namely, defacto complainant could have explained to the villagers and cleared the doubts of the villagers. On the other hand, he had lodged the complaint. Admitted case is that the villagers assembled outside the Panchayat office and raised slogans which would not automatically attract the force being shown on the public servant preventing them from discharging their official work.

8. Further in this case there is no prohibition order and it is not a unlawful assembly and there is no nuisance. Except the defacto complainant, all other material witnesses are Police personal. In this case the admitted version is the villagers have only objected for drawl of water from the temple village Well. It is according to them would affect their water table and their life. Further the Hon'ble Apex Court in the decision reported in(2015) 7 SCC 423 (*Manik Taneja & Another Vs State of Karnataka & Another*) had held that the essential ingredients of the offence under Section 353 IPC are that the person accused of the offence should have assaulted the public servant or used criminal force with the intention to prevent or deter the public servant from discharging his duty as a public servant.



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9. In this case except assembling and raising slogans, there is absolutely nothing on record to show that the accused assaulted the respondents or use criminal force against them. Considering the statement, records and uncontroverted allegations it is found that there is no case made against the petitioner.

10. In this view of the matter, the proceedings in C.C.No.564 of 2024 on the file of the learned Judicial Magistrate No.V, Tirunelveli is hereby quashed and the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

03.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
MGA

To

- 1.The Judicial Magistrate No.V,
Tirunelveli.
- 2.The Inspector of Police,
Manur Police Station,
Tirunelveli District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR,J.

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