

In Re: V. Rangaswami Moopanar

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Court : Chennai

Decided On : Jul-03-1928

Reported in : 118Ind.Cas.504

Judge : Ramesam, J.

Appellant : In Re: V. Rangaswami Moopanar

Judgement :

ORDER

Ramesam, J.

1. This is a petition to quash proceedings taken under Section 107, Criminal Procedure Code, before the Joint Magistrate of Kumbakonam in M. C. No. 27 of 1927. The history of the case may be stated. One Seethalakshmi, owner of a ryotwari estate called Kapistalam, died on 9th March, 1926. She had previously leased one of the villages of the estate, Satyamangalam to her daughter's son Nagaraja Moopanar. She herself was enjoying the estate as the daughter of the last male owner. She afterwards leased the whole estate to Rangagwami Moopanar, the petitioner who is admittedly the next agnate reversioner to the estate. After the second lease was effected, the second lessee as well as the lessor gave notice to Nagaraja Moopanar informing him of the lease and asking him to pay rent to the second lessee. But Nagaraja Moopanar repudiated the title of Seethalakshmi herself. After the death of Seethalakshmi, disputes began

between the parties. On the 16th April. 1926, there was a rioting in the village. It was the result of an attempt of Nagaraja Moopanar's party to carry away the paddy at the thrashing floors in the village. Nagaraja Moopanar and his men were charged with rioting but were discharged. But the District Magistrate had directed further enquiry against all the accused except Nagaraja Moopanar. That case is still pending. The present petitioner, Rangaswami Moopanar was never charged with any offence connected with the incidents of that day. But in August, 1926, security proceedings under Section 107, Criminal Procedure Code, were started against him, but the then Sub-Divisional Magistrate found that there was no case for security proceedings; on the other hand he found that the petitioner was a perfectly law-abiding citizen. A suit was afterwards filed by Nagaraja Moopanar on the 22nd September, 1926, O.S. No. 81 of 1926, and a Receiver was appointed by the Subordinate Judge but the High Court set aside this order of appointment of Receiver on the ground that the claim of Nagaraja Moopanar was very extraordinary. In that suit he claimed to be entitled to the estate on the basis of a custom that a daughter's daughter's son would be a preferential heir to an agnate. He also claimed that Satyamangalam village was in his possession. This suit was followed by 19 suits by his tenants in which they claimed to be in possession of certain specific plots. A preliminary issue was framed as to possession and the District Munsif found that they were not in possession. He, therefore, directed them to amend their plaints by adding a prayer for possession and to pay additional Court-fees. The additional Court-fee was not paid and the suits were dismissed. Proceedings were then taken under Section 144, Criminal Procedure Code, and an order was passed against Nagaraja Moopanar. But there was an application to modify that order and this application was taken up by the present Joint Magistrate. He converted the proceedings into proceedings under Section 145, Criminal Procedure Code, and appointed a Receiver who is still continuing. I mention all these facts at this stage to show that so far every proceeding had ended against Nagaraja Moopanar and in favour of Rangaswami Moopanar. On the 13th September 1927, there was another rioting in the village. A Criminal Case No. 105 of 1927 was filed against the party of Nagaraja Moopanar and they were convicted. The Police sent up a referred charge-sheet exonerating the party of Rangaswami Moopanar. But a private complaint was filed against their waram

ryots which is C. C. No. 117 of 1927, but they were acquitted. The present proceedings under Section 107, Criminal Procedure Code, were started by the Joint Magistrate on the ground that the petitioner was inducing some of the waram tenants of Satyamangalam not to pay rents to Nagaraja Moopanar and that he was inducing his men to do other unlawful acts on the 15th April, 16th April and 17th April, 1926, and in July, 1927. On this preliminary order, under Section 112 there has been an elaborate enquiry. The case was argued fully on the 20th March, 1928, and was posted for judgment on the 29th March, 1928. On that day instead of judgment being pronounced the Magistrate found that additions have to be made to the grounds on which proceedings had to be taken under Section 107. Obviously he found that in that stage at which the case stood there was no case made out against the petitioner. So he passed a second order directing certain additions to be made to the grounds of the original preliminary order. But this addition merely referred to the incidents of 13th September, 1927. Incidentally it may be mentioned that the application of the Prosecuting Inspector on which this order was made was really made at the instance of the Joint Magistrate himself. Analysing all the charges against the petitioner, we see that, so far as the incidents of April, 1926, are concerned which are mentioned in the earlier preliminary order an enquiry is still pending so far as Nagaraja Moopanar and his party are concerned. But so far as the petitioner is concerned, the matter ended in an honourable acquittal of the petitioner in M. C. No. 22 of 1926. So far as the incidents of the 13th September, 1927, are concerned which are added in the second order, we see that Nagaraja Moopanar's men are convicted whereas the waram tenants are acquitted. Under these circumstances to make the events which have been the subject of judicial pronouncement the ground of fresh proceedings under Section 107 is opposed to the principles laid down by Abdur Rahim and Napier, JJ., in *In Re: Nagireddy Kondareddy* 41 Ind. Cas. 990 : 41 M. 246 : 18 Cr.L.J. 878 followed in *In Re: Kutti Goundan* 86 Ind. Cas. 49 : 47 M.L.J. 689 : (1925) M.W.N. 57 : A.I.R. 1925 Mad. 189 : 26 Cr.L.J. 673 with the observations in both of which cases I entirely agree. All that remains is that Rangaswami Moopanar was advising his own men not to pay rent to Nagaraja and not to allow his party to trespass and carry away the paddy. He is perfectly within his rights in doing so and there is nothing unlawful in his so advising his tenants.

No doubt the Joint Magistrate thinks in this case that by taking security proceedings against both parties he would be acting impartially and keeping the peace of the village. But when all the judicial proceedings show that all the acts of the one party have been lawful and provoked by the unlawful acts of the other party, there is no justification for taking proceedings against both the parties. Nagaraja Mooppanar and his party will now be well-advised to abide by the result of their original suit and not to create further disturbance; but if they do, there is no reason for taking proceedings against the petitioner. I think I am justified in quashing these proceedings at this stage as laid down in the cases already mentioned, in addition to which I may add the observations of Mukerjee, J. in *Rajendra Narayan Singh v. Emperor* 18 Ind. Cas. 146 : 17 C.W.N. 238 : 16 Cri.L.J. 467 : 14 Cr.L.J. 5. The security proceedings are quashed accordingly.

In Criminal Miscellaneous Petition 462 of 1928.

2. In view of the above order no order is necessary on this petition.

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