



Crl.O.P.(MD)No.6450 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.09.2024

Pronounced on : 27.09.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.O.P.(MD)No.6450 of 2024

and

Crl.M.P.(MD)No.4889 of 2024

S.Kuttimani

... Petitioner

Vs.

1.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
(Crime No.114 of 2019)

2.Sathiskannan
Village Administrative Officer,
Kadambadudi Group,
Thiruvadanai Taluk,
Ramanathapuram District.

... Respondents

Prayer : This Criminal Original Petition filed under Section 482 Cr.P.C., to quash the First Information Report (FIR) registered by the first respondent police in Crime No.114 of 2019 against the petitioner/accused on the file of the first respondent.



Crl.O.P.(MD)No.6450 of 2024

WEB COPY

For Petitioner : Mr.R.Sevugaraja

For R1 : Mr.P.Kottai Chamy
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition has been filed seeking orders to quash the FIR in Crime No.114 of 2019 pending on the file of the first respondent as against the petitioner.

2. The petitioner is the second accused in Crime No.114 of 2019 on the file of Thiruvadanai Police Station, Ramanathapuram.

3. The case of the prosecution is that on 29.05.2019 at about 07.00 p.m., when the second respondent Sathiskannan, Village Administrative Officer of Kadambakudi Group Village and his Assistant Ganesan, on receipt of secret information, went to Kadambakudi Village and found that one Kuppuraj Taurus lorry driver was unloading river sand in front of a Thirumana mandapam from his Taurus lorry bearing Registration No.TN-55-AT-1517 and on getting information from the said lorry driver that he had illegally transported the river sand from



Crl.O.P.(MD)No.6450 of 2024

Aranthangi Vellaru, lodged a complaint before the respondent police along with the Taurus lorry and the driver.

4. On the basis of the complaint lodged by the Village Administrative Officer, FIR came to be registered in Crime No.114 of 2019 for the alleged offences under Section 379 IPC and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957 against the said Kuppuraj. It is not in dispute that the first respondent has filed an alteration report including the petitioner herein as second accused alleging that when the first accused Kuppuraj was enquired, after arresting him, he informed that he had unloaded four units of river sand as requested by the petitioner and on that basis, he was included for the alleged offence under Section 411 IPC.

5. The learned counsel appearing for the petitioner would submit that in the FIR, it has been specifically stated that the first accused had unloaded four units of river sand in front of the Kuttimani Thirumana Mandapam and on that basis, the driver of the Taurus lorry came to be arrested and property came to be recovered and that there was absolutely



Crl.O.P.(MD)No.6450 of 2024

WEB COPY

no allegations against the present petitioner in the FIR that as per the request made by him, river sand came to be unloaded in front of the said mandapam. He would further submit that the said mandapam is not at all owned by him and in fact that the said mandapam is owned by his father Sakthivel, that the petitioner is not at all residing in his parent village and permanently residing at Chennai and that the investigating officer, without considering the above aspects and without proper investigation, has implicated him mechanically.

6. The petitioner has produced the sale deeds and the revenue records to show that the said mandapam stands in favour of one Sakthivel-father of the petitioner. Moreover, he has also produced the licence issued by the Tahsildar, Thiruvadanai to use the building as marriage hall in the name of Balu Nachiyar Thirumana Mandapam and the receipt issued by the Achangudi Village Panchayat, Thiruvadanai Block, Ramanathapuram District to show that the property tax has been paid, which stands in the name of Sakthivel. The petitioner has also produced the certificate renewing licence in favour of the petitioner, wherein, the petitioner address has been shown as No.7/14 Kannagi Street, Nehru Nagar,



Crl.O.P.(MD)No.6450 of 2024

Velachery, Chennai-42.

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7. As rightly contended by the learned counsel appearing for the petitioner, in the FIR, it has not been stated that as per the request made by the petitioner, four units of river sand came to be unloaded in front of the Kuttimani Thirumana Mandapam by the first accused.

8. The learned counsel appearing for the petitioner would submit that though the name of the building is Balu Nachiyar Thirumana Mandapam, in the village it has been called as Kuttimani Thirumana Mandapam and on that basis, the first accused has informed the police and that the first respondent, considering the petitioner as the owner of the said mandapam, has implicated him as an accused.

9. Moreover, as already pointed out, the petitioner was implicated as an accused for the alleged offence under Section 411 IPC. The Hon'ble Supreme Court in the case of *Trimbak Vs. The State of Madhya Pradesh* reported in *AIR 1954 SC 39* has held that in order to attract the offence under Section 411 IPC, the prosecution has to show (1) that the stolen



Crl.O.P.(MD)No.6450 of 2024

property was in the possession of the accused, (2) that some person other than the accused had possession of the property before the accused got possession of it, and (3) that the accused had knowledge that the property was stolen property.

10. As rightly contended by the learned counsel appearing for the petitioner, it is not the case of the prosecution that four units of river sand was recovered from the possession of the petitioner, but on the other hand, they have recovered the river sand which came to be unloaded by the first accused in front of the said mandapam and more importantly, not in the mandapam premises.

11. Even assuming for arguments sake that the property was in possession of the petitioner, it is not the case of the prosecution that he had knowledge that the property was stolen property. It is pertinent to note that mere receipt of stolen property is not enough to attract the provision of Section 411 IPC and that the accused must have the knowledge or reason to believe that the property was stolen and must have acted dishonestly in receiving, retaining, buying or selling it. In the case on hand, there is



Crl.O.P.(MD)No.6450 of 2024

absolutely no averments in the FIR or in the alteration report so as to implicate the petitioner as an accused.

12. Considering the above, this Court is of the view that ingredients of the offence under Section 411 IPC are not made out as against the petitioner and as such permitting the prosecution to proceed against the petitioner is not only unnecessary but also not warranted and would only amount to abuse of process of law. Hence, this Court concludes that the FIR in Crime No.114 of 2019 is liable to be quashed as against the petitioner.

13. In the result, this Criminal Original Petition is allowed and the proceedings in Crime No.114 of 2019 on the file of the first respondent police, is quashed as against the petitioner. Consequently, connected miscellaneous petition is closed.

27.09.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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Crl.O.P.(MD)No.6450 of 2024

K.MURALI SHANKAR,J.

csn

To

- 1.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order made in
Crl.O.P.(MD)No.6450 of 2024
and
Crl.M.P.(MD)No.4889 of 2024

Dated : 27.09.2024