



Crl.O.P. (MD) No.17171 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

ORDERS RESERVED ON : 28.10.2024

ORDERS PRONOUNCED ON : 26.11.2024

CORAM

THE HON'BLE MR. JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P. (MD) No.17171 of 2022
& Crl.M.P. (MD) Nos.11588 and 11589 of 2022
& 9847 of 2024

R.Manikandan

... Petitioner

Vs.

1.State Rep.by
The Inspector of Police
Vasudevanallur Police Station
Vasudevanallur
Tirunelveli District
(In Crime No.330 of 2020)

2.Kajamohaideen

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in impugned charge sheet in P.R.C.No.25 of 2022 on the file of the Judicial Magistrate, Sivagiri, in Crime No.330 of 2020 on the file of the 1st respondent and quash the same as illegal.



Crl.O.P. (MD) No.17171 of 2022

WEB COPY

For the Petitioner : Mr.R.Manikandan, Party-in-Person
For the Respondents : Ms.M.Aasha
Government Advocate (Crl.Side)

ORDER

A. The Petition:

This Criminal Original Petition is filed to quash the final report in P.R.C.No.25 of 2022 on the file of the Judicial Magistrate Court, Sivagiri, for the alleged offences under Sections 294 (b), 353, 506 (1) and 379 of IPC.

B. The Case of the Prosecution:

2. The case of the prosecution as per the first information report and as per the final report is that L.W.1 –*Kajamohaideen*, was functioning as the Village Administrative Officer; L.W.2 – *Seevil Pandian*, was functioning as the Village Assistant and L.W.3 –*Muthukumar* was functioning as Revenue Inspector, at the relevant point of time. While so, within the boundaries of *Sankanaperi* Village, in the outskirts of *Nitchobanathi* River, in Survey Nos.4/1, 11/2, 38/2, 93/1 and near the same in Survey Nos.11/1A, 11/131 and in *Nerkattumseval* Village, in Survey Nos.260/3A, 179/3,



CrI.O.P. (MD) No.17171 of 2022

198/1A, there was unclaimed 52 units of river sand which was stocked. Upon learning about the same, Revenue Tahsildar, Sivagiri, fixed the price and auctioned it. In the auction, one *Maridurai*, son of *Muthupandian* belonging to the *Nerkattumseval* Village became the successful bidder and permission was granted to him to utilize the river sand from 10.08.2020 to 15.08.2020.

2.1 The petitioner herein, though unconnected with the above-mentioned incident, is alleged to have stocked river sand, on the barren land belonging to one *Rangarajan* in Survey Nos. 5/1, 5/2, 5/3, and 5/6, for his personal benefit, by illegally extracting it from the river *poramboke* and *patta* lands. Upon receiving a complaint from the public through L.W's.1 to 3, attempted to transport the sand to the Taluk Office on 12.08.2020. However, at about 09.30 am., the petitioner - *Manikandan* confronted L.W's.1 to 3 and falsely claimed that he had got an order of seizure pass and scolded them in filthy language as to how they could attempt to take away the said sand and prevented L.W's.1 to 3 from performing their official duties. Hence, the final report under Sections 294 (b), 353, 506 (1) and 379 of IPC was filed. Aggrieved by the same, the present Criminal Original Petition is filed.



CrI.O.P. (MD) No.17171 of 2022

C. The Back Ground As Per the Petitioner:

3. As per the petitioner, in *Sankanaperi* Village, Survey Nos.4/1, 11/2, 38/2, 93/1, in Survey Nos.11/1A, 11/131 and also in *Nerkattumseval* Village, *Sivagiri* Taluk, Survey Nos.260/3A, 179/3, 198/1A, which are the *patta* lands, 52 units of river sand was found to be accumulated and stocked illegally. Upon enquiry, nobody claimed ownership of the said mineral. Therefore, it was decided to auction the said 52 units of river sand.

3.1 On 24.07.2020, one *Maridurai*, son of *Muthupandian* became the successful bidder in the auction and the sand was allotted to him with a direction to deposit a sum of Rs.18,480/-. An order thereof to issue trip sheets for removal of the river sand, in favour of the said *Maridurai*, son of *Muthupandian* was also passed on 08.08.2020 bearing Na.Ka.No.A3/12577/2011. Thereafter, on 25.08.2020, the said *Maridurai* had submitted a representation to all the authorities through registered post, complaining that after participating in the auction and depositing a sum of Rs.18,480/-, when he went to the spot, found that no river sand was available. Therefore, he challenged the authorities that he would go to Court unless the 52 units of river sand were handed over to him.



CrI.O.P. (MD) No.17171 of 2022

WEB COPY

3.2 Fearing that he will go to Court, on 12.08.2020 a case in Crime No.330 of 2020 was registered against one *Manikandan*, under Sections 294 (b), 353, 506 (1) and 379 of IPC, as if he had illegally indulged in sand mining. In the said FIR, it has been stated that one *Muthupandi* was the successful bidder in the auction conducted by the Revenue Tahsildar, *Sivagiri*. In the meanwhile, the petitioner - *Manikandan* also sent a representation to all the higher officials in the police department on 17.08.2020, stating that he is an activist, who whistle blows concerning illegal encroachments. Merely because, he made an allegation against one *Thangapazham*, regarding the encroachment in 'Odai poramboke' land and building his educational institutions over the same, his name also falsely implicated in the present Crime No.330 of 2020, upon the influence of *Thangapazham*.

3.3 However, the authorities fearing backlash, stuck to a compromise with the said *Maridurai*, and proceeded to tamper with the first information report itself and have filed a completely false final report, hence



CrI.O.P. (MD) No.17171 of 2022

this petition.

WEB COPY

D.The Submissions:

4. According to the petitioner, the entire case is a false prosecution, solely because, he is an activist, who has given petitions as against one *Thangapazham*, who has built his educational institutions by encroaching on the ‘*Odai poramboke*’ land. In this case, there are two different First Information Reports for the same Crime Number and two different complaints. The petitioner had obtained the copies of same and produced it before this Court.

4.1 In one FIR, the name of the two accused persons were mentioned. The petitioner was shown as the first accused and one *Maridurai*, son of *Muthupandian* was shown as the second accused. There is another FIR in the same Crime No.330 of 2020, which mentions only the name of the petitioner *Manikandan* as an accused. He would therefore, submit that the entire case is a false prosecution and an abuse of process of law, intended to frame him.



E. The Respondent's Version:

5. Upon the arguments made by the Party-in-Person, this Court specifically directed, why there were two FIRs in the same Crime No.330 of 2020 and directed the respondent police to file their counter affidavit explaining the position.

5.1 The person who had originally registered the FIR has not filed an affidavit, but a counter affidavit is filed by the present Inspector of Police – *Ms C.Kanmani*, wherein in paragraph No.6, it has been stated as follows:-

“6.I respectfully state that while the facts are being so, the Petitioner/Sole Accused illegally produced the unauthorized preview copy of the First Information Report in Crime No.330 of 2020 which was obtained by him in an illegal manner before this Hon'ble Court. The Preview copy of FIR is meant for carrying out corrections. The Typist who typed the FIR wrongly typed Maridurai as 2nd Accused. The said Maridurai is none other than the Father of Muthupandi to whom the seizure Order was given by the Public Welfare Department. Hence, while verifying the preview copy of FIR, the then Inspector of Police deleted the name of Maridurai and directed the Typist to freeze the FIR against the Petitioner since he is the sole accused committed theft of Sand from Tharisu Lands, nearby river shore Porambokku Lands and from Patta Land and stored the same in the Sanganaperi Village in Survey Nos.5/1, 5/2, 5/3, 5/6 without any proper permission from the Public Welfare Department and illegally stored them in another place. The petitioner / Sole Accused got the above said Preview copy of FIR through illegal manner with the help of police person from the respondent police Station. The preview copy of FIR is



CrI.O.P. (MD) No.17171 of 2022

not a Public Document and it cannot be termed as second FIR or additional FIR rather it is a copy made before the process of registration of FIR.”

(emphasis supplied)

5.2 Thus, it can be seen that it is the case of the prosecution that the FIR produced by the petitioner / Party-in-person is indeed not a forged one or an incorrect one, but it is a preview copy. Even before final corrections are made and the final printout is taken, this preview copy which is printed out has been illegally obtained by the petitioner and produced before this Court. The typist has wrongly typed the name of the second accused in the FIR. It was corrected and thereafter, the corrected FIR was printed out.

F.The Discussion & Findings:

6. But the above version of the respondent-Police is a false story, and the following are the shocking facts that stare at them:

(i) Firstly, the alleged correct copy of the FIR in Crime No.330 of 2020 though is dated 12.08.2020 was received by the learned Magistrate only on 19.08.2020, after 7 days, especially when the petitioner herein had made a representation to all the higher official authorities on 17.08.2020 itself.

(ii) The respondent-Police is trying to hoodwink the Court by



CrI.O.P. (MD) No.17171 of 2022

mentioning as if the typist wrongly typed the name of *Maridurai* as the second accused. However, not only the different versions of the FIR are produced before this Court, but two different versions of the complaint given by *Kajamohaideen*, Village Administrative Officer (L.W.1) are produced before this Court. The contents of both the FIRs differ. For easy appreciation, both the FIRs are typed in the form of tabular column for comparison and the same read as follows:-



CrI.O.P. (MD) No.17171 of 2022

First FIR	Second FIR
இன்று 12.08.2020 ஆம் தேதி 21.30 மணிக்கு வாகதேவநல்லூர் காவல் நிலைய சிறப்பு ஆய்வாளர் 1621 C.மகாலிங்கம் ஆகிய நான் நிலைய பொறுப்பில் இருக்கும் போது சிவகிரி வட்டம் சங்கனாப்பேரி கிராமம், கிராம நிர்வாக அலுவலர் மு.கா ஜாமுகைதீன் என்பவர் நிலையம் ஆஜராகி கொடுத்த புகார் மனுவை பெற்று பார்வையிட்டு அதன் தன்மைக்கேற்ப வாகதேவநல்லூர் காவல்நிலைய குற்ற எண்.330/2020 u/s 294(b), 353, 506 (i), 379 IPC (sand theft) ஆக வழக்கு பதிவு செய்தேன். புகார் மனு பின்வருமாறு, அனுப்புநர், மு.கா ஜாமுகைதீன் கிராம நிர்வாக அலுவலர், சங்கனாப்பேரி கிராமம் சிவகிரி வட்டம் செல : 9965289457 பெறுநர் காவல் ஆய்வாளர் அவர்கள், வாகதேவநல்லூர் காவல் நிலையம், வாகதேவநல்லூர். ஐயா, நான் சங்கனாப்பேரி கிராமத்தில் கிராம நிர்வாக அலுவலராக பணிபுரிந்து வருகிறேன். ந.க.ஆ3/12577/2011 நாள்.08.08.2020ன் படி நெல்கட்டும் செவல் கிராமத்தைச் சேர்ந்த மு.மாரிமுத்து த.பெ.முத்துப்பாண்டியன் என்பவருக்கு புல எண்கள்.206/3A, 179/3, 198/1 ல்	இன்று 12.08.2020 ஆம் தேதி 21.30 மணிக்கு வாகதேவநல்லூர் காவல் நிலைய சிறப்பு ஆய்வாளர் 1621 C.மகாலிங்கம் ஆகிய நான் நிலைய பொறுப்பில் இருக்கும் போது சிவகிரி வட்டம் சங்கனாப்பேரி கிராமம், கிராம நிர்வாக அலுவலர் மு.கா ஜாமுகைதீன் என்பவர் நிலையம் ஆஜராகி கொடுத்த புகார் மனுவை பெற்று பார்வையிட்டு அதன் தன்மைக்கேற்ப வாகதேவநல்லூர் காவல்நிலைய குற்ற எண்.330/2020 u/s 294(b), 353, 506 (i), 379 IPC (sand theft) ஆக வழக்கு பதிவு செய்தேன். புகார் மனு பின்வருமாறு, அனுப்புநர், மு.கா ஜாமுகைதீன் கிராம நிர்வாக அலுவலர், சங்கனாப்பேரி கிராமம் சிவகிரி வட்டம் செல : 9965289457 பெறுநர் காவல் ஆய்வாளர் அவர்கள், வாகதேவநல்லூர் காவல் நிலையம், வாகதேவநல்லூர். ஐயா, நான் சங்கனாப்பேரி கிராமத்தில் கிராம நிர்வாக அலுவலராக பணி செய்து வருகிறேன். ஊர் கிராமத்தில் நிச்சோபநதி ஆற்றுப்புறம்போக்கில் உள்ள புல எண்கள் 4/1, 11/2, 93/1, 38/2 ஆகியவை ஆகும். மேலும் பட்டாதாரர் புல எண்கள் (ஆற்றுக்கு அருகில்) 11/1A, 11/131 ஆகியவை உள்ளன. மேலும் ந.க.ஆ3/12577/2011



CrI.O.P. (MD) No.17171 of 2022

WEB COPY

6.1 Thus, the first version of the FIR, states two facts,

(i) *Manikandan* obtained a copy of the seizure order from the second accused – *Maridurai* and claimed the right to remove the river sand;

(ii) On the strength of the said seizure order, both the persons had illegally quarried the river sand in *Nitchobanathi* river *Poramboke* Survey Numbers and *Patta* Survey Numbers. Whereas in the second version of the FIR and complaint, the first allegation is that the said *Manikandan* got a copy of the seizure order of *Maridurai* is left out and it is mentioned that unconnected to the auction, *Manikandan* claimed rights over the alleged river sand. The allegation that both of them have jointly illegally quarried was also now changed in the second version of FIR.

6.2 Both the duly signed photocopies of the FIRs and two versions of the complaints were produced before this Court. Therefore, it is obvious that the entire case is a false one. The counter affidavit filed stating that, it was a typing mistake to include the said *Maridurai* as an accused cannot be accepted as it is not the only mistake in the column for mentioning the name of the accused but the very complaints itself differ. It is trite that a person



CrI.O.P. (MD) No.17171 of 2022

may lie but the circumstances may not. The mentioning of the first few sentences about the auction to *Maridurai* becomes necessary only if it is the version of the prosecution that *Manikandan* obtained the copy of the order from *Maridurai* and claimed rights and both of them illegally quarried. If unconnected to the auction episode to *Maridurai*, *Manikandan* had illegally quarried, then mentioning the whole episode about *Maridurai* was unnecessary, illogical and unnatural. To mention an irrelevant thing and thereafter mention that unconnected to the *Maridurai* episode, *Manikandan* quarried and stocked illegally by itself exposes the falsity of the case. Thus, it is clear that when the prosecution wanted to change the first version into a new one, they did not apply their mind in full and continued to make only cosmetic changes, which defied logic and exposed them thoroughly.

6.3 The same absurdity continued in the final report also. The entire final report filed by the Investigating Officer is extracted hereunder:-

“குற்றச்சாட்டு சட்டபிரிவு 330 / 2020 u/s:
294 (b), 353, 506 (i), 379 IPC (sand theft)

இந்த வழக்கின் சாட்சி - 1
சங்கனாபேரி கிராம நிர்வாக அலுவலாக
பணிபுரிந்து வருகிறார். சாட்சி - 2
வாகுதேவநல்லூர் கிராம உதவியாளராகவும்
கூடுதலாக சங்கனாபேரியில் கூடுதல்



CrI.O.P. (MD) No.17171 of 2022

பொறுப்பும் பார்த்து வருகிறார். அதே போல்
சாட்சி - 3 சிவகிரி வருவாய்
ஆய்வாளராக இருந்து கூடுதல்
பொறுப்பு சங்கனாபேரியையும் பார்த்து
வருகிறார்.

இந்நிலையில் சங்கனாபேரி
கிராமத்திற்கு உட்பட்ட நிச்சோபநதி ஆற்று
புறம்போக்கில் புல எண்.4/1, 11/2, 38/2, 93/1
ஆகியவைகளிலும் மேலும் பட்டாதாரர் புல
எண்கள் ஆற்றுக்கு அருகில் 11/1A, 11/131
ஆகியவைகள் மற்றும் நெற்கட்டும் செவல்
கிராமம் புலஎண்:260/3A, 179/3, 198/1A ல்
உரிமை கோரப்படாத 52 யூனிட் மணல்
குவித்துள்ளதாக தெரிந்து பொதுப்பணித்துறை
நிர்ணயித்த விலையின் படி ஏலம் விடப்பட்டு
அந்த ஏலத்தை நெற்கட்டும்செவல்
முத்துப்பாண்டிக்கு மணலை
அப்புறப்படுத்திக்கொள்ள 10.08.2020 முதல்
15.08.2020 மாலை 6.00 மணிவரை அனுமதி
வழங்கப்பட்டுள்ளது. ஆனால் இவ்வழக்கின்
எதிரி மேற்கண்ட ஆணைக்கு
சம்மந்தம் இல்லாமல் சங்கனாபேரி கிராமத்தில்
உள்ள ரெங்கராஜன் புலஎண்.5/1, 5/2, 5/3, 5/6 ல்
தரிக நிலத்தின் மணலை எந்தவித அரசு
அனுமதியும் இன்றி சொந்த ஆதாயத்திற்காக
ஆற்று புறம்போக்கிலும் பட்டா
நிலத்திலும் இருந்து திருடி கொண்டு வந்து
குவியலாக வைத்துள்ளார். அந்த குவியல்
மணலை பற்றி பட்டாதாரர் மற்றும்
பொதுமக்கள் கொடுத்த புகாரின் பேரில் சாட்சி
- 1, 2, 3 சீசர் செய்து வட்டாச்சியர்
அலுவலகத்திற்கு கொண்டு செல்ல 12.08.2020
ம் தேதி 09.30 மணிக்கு அந்த இடத்தில்
வைத்து சாட்சிகளை எதிரி தான்
நெற்கட்டும்செவல் சீசர் பாஸ் பெற்றவர்
என்றும் அந்த மணலை இங்கு குவித்து
வைத்துள்ளேன் என்றும் 1, 2, 3 சாட்சிகளை



CrI.O.P. (MD) No.17171 of 2022

எப்படி தாயோழிகளா இந்த மணலை அள்ள
வந்துட்டங்க என்று அசிங்கமாக பேசி, அரசு
பணியை செய்வவிடாமல்
தடுத்தும், இங்க இருந்து நீங்க எப்படி
மண்ணை அள்ளிட்டு போனீங்கன்னு பார்ப்போம்
மணலை அள்ளினால் உங்களை கம்மா
விடமாட்டேன் என்று மிரட்டியதாக உள்ள குற்றம்
எனவே இவ்வழக்கின் எதிரி சட்டப்பிரிவு 294
(b), 353, 506 (i), 379 IPC (sand theft) படி
தண்டிக்க தக்க குற்றம் புரிந்தவராகிறார்.

ஆகவே எதிரி மீது இந்த
குற்றச்சாட்டு.”

6.4 Thus it can be seen that the first four sentences do not have a proper meaning. Again, it tried to convey that the sand which was found to be unclaimed in the Survey Numbers mentioned therein was auctioned to one *Muthupandi*, the same is also factually wrong. It was given to *Maridurai*, son of *Muthupandian*. If the action of the petitioner – *Manikandan* is not connected to the auction or the seizure pass given to the said *Maridurai*, in the natural course of events, those facts would not have found a place, both in the FIRs and in the final report. It would have simply proceeded on the basis that in the *patta* land belonging to one *Rangarajan* in Survey Nos.5/1, 5/2, 5/3, and 5/6, the petitioner – *Manikandan* had illegally stocked the river sand by illegally quarrying from the river *poramboke* lands and *patta* lands. Thus,



CrI.O.P. (MD) No.17171 of 2022

from the unimpeachable materials available before this Court, in the form of two FIRs, two complaints with the signatures of L.W.1 about the same incident and the final report, one can reach the irresistible conclusion that the case is nothing but falsehood. Accordingly, the entire final report deserves to be quashed.

6.5 This apart, *prima facie* it can be seen that there were 52 units of unclaimed river sand. The respondent – Police can easily investigate and find out who had illegally quarried the same. Secondly, when the unclaimed river sand was auctioned, the auction purchaser – *Maridurai* claimed that there was no sand, even though he had deposited the auction money and somebody had stealthily removed it and only because he challenged the authorities to go to the Court, about the same, to threaten him and since this petitioner – *Manikandan* who seems to be a whistle-blower, to keep him also into check, initially with the help of L.W.1 - Village Administrative Officer, a complaint has been given and the FIR is lodged and print out is also taken. However, without sending the FIR immediately to the Judicial Magistrate and taking advantage of the fact that the present FIRs are not on serial number-based sheets, but were printed out from the computer, some behind the scene



CrI.O.P. (MD) No.17171 of 2022

negotiations and bargains appear to have taken place and the police and revenue officials seemed to have struck some compromise with *Maridurai* and therefore another print out is taken by getting one more ante dated different version of the complaint and the second version FIR was thereafter sent to the Court on 19.08.2020.

6.6 Therefore, the Superintendent of Police, *Tirunelveli* District, is directed to conduct a preliminary enquiry into the matter and if *prima facie* the offence of falsification of records, forgery, false prosecution, etc., are made out against the police personnel, including the Investigating officer and those who registered both the FIRs, L.W's.1 to 3 – the Village Administrative Officer, Village Assistant, Revenue Inspector and any other official, whomsoever is involved, register a case against them and complete the investigation and file a final report in the manner known to law.

G. The Result:

7. In the result, this Criminal Original Petition is disposed of on the following terms:

- (i) The case in P.R.C.No.25 of 2022 on the file of the Judicial



CrI.O.P. (MD) No.17171 of 2022

Magistrate Court, *Sivagiri*, shall stand quashed;

WEB COPY

(ii) the Superintendent of Police, *Tirunelveli*, shall conduct a preliminary inquiry as to the two sets of FIRs and two complaints as indicated above and if the creation of false documents and using the same as genuine, falsification of records, false prosecution and any other offence are made out against the police and revenue officials as well as any other private persons, register a case against them and investigate into the issue and file final report, in accordance with law. A set of copies of all the papers filed in this petition as well as in P.R.C. No. 25 of 2022 shall be furnished to him by the Registry as well as by the Learned Magistrate upon his request;

(iii) The preliminary enquiry shall be completed within two weeks from the date of receipt of a copy of this order and if a *prima facie* case is made out, a case shall be registered and investigation shall be completed within three months from the date of registration of the case and final report be filed;

(iv) The outcome of the preliminary enquiry, as the case may be, shall be forwarded to this Court;

(v) Consequently, the connected miscellaneous petitions are closed.



WEB COPY



CrI.O.P. (MD) No.17171 of 2022

26.11.2024

Jer

Neutral citation : Yes

To

- 1.The Judicial Magistrate,
Sivagiri.
- 2.The Superintendent of Police
Tirunelveli District.
- 3.The Inspector of Police
Vasudevanallur Police Station
Vasudevanallur
Tirunelveli District
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.O.P. (MD) No.17171 of 2022

D.BHARATHA CHAKRAVARTHY, J.,

Jer

Pre-Delivery Order made in
Crl.O.P. (MD) No.17171 of 2022

26.11.2024