

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.03.2015

CORAM

The Hon'ble Mr. Justice R.S.RAMANATHAN

Crl.O.P.No.3051 of 2015
and M.P.No.1 of 2015

- 1.N.Manivannan
- 2.K.Shanmugasundaram
- 3.M.Narayanamurthi
- 4.C.Subramaniam

... Petitioners/Accused
(A1, A2,A3 & A4)

vs.

1. State rep. by
The Sub Inspector of Police,
Kumaralingam Police Station,
Tirupur.
(Crime No.208 of 2012)

2. The Village Administrative Officer,
Papamkulam Village,
Kumaralingam.

... Respondents/Complainant
& Defacto Complainat

Criminal Original Petition filed under Section 482 of the Criminal Procedure Code praying to call for the records pertaining to the F.I.R in Crime No.208 of 2012 on the file of the first respondent police and quash the same.

For Petitioners : Mr.S.Doraisami, Senior Counsel
for M/s.Muthumani Doraisami
For Respondents : Mr.M.Maharaja
Additional Public Prosecutor

O R D E R

This petition is filed to quash the F.I.R. in Crime No.208 of 2012 on the file of the first respondent police.

2. It is submitted by the learned Senior Counsel for the petitioners that on the complaint given by the second respondent, a case was registered against the petitioners for having committed

offence under Section 379 IPC and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. He further submitted that a perusal of the F.I.R. would disclose that no offence has been made out and in the F.I.R no particulars regarding survey number or the area from where the petitioners have taken minerals without the permission of the authorities. He also submitted that the District Collector, Tiruppur issued a proceedings dated 30.08.2012 in Na.Ka.124/2011/Mineral, cancelling the permission given to the firm "Sun Bricks" and also initiated proceedings under Section 36A of the Mines and Minerals Concession Rules. The said proceedings dated 30.08.2012 was set aside by this Court in W.P.No.10/2013 filed by "Sun Bricks" on the basis of the report of the Revenue Tahsildar dated 03.09.2014. The learned Senior Counsel for the petitioners submitted that in the order passed in W.P.No.10/2013, it was observed that the order dated 30.08.2012 was solely based on the earlier report of the Revenue Tahsildar, who admitted that she prepared the said report in a hurried manner and the very same Revenue Tahsildar gave a report dated 03.09.2014, wherein he has clearly stated that the firm "Sun Bricks" have not taken any sand in unauthorized places. He further submitted that having regard to the order passed in W.P.No.10/2013 and the report of the Revenue Tahsildar dated 03.09.2014, the F.I.R is to be quashed. He also submitted that the petitioners are the partners and ex-partners of the firm "Sun Bricks" against whom proceedings were initiated under the provisions of Mines and Minerals (Development and Regulation) Act, 1957.

3. The learned Additional Public Prosecutor has filed a counter affidavit stating that initially permission was granted to the petitioners, vide proceedings in Na.Ka.124/Mineral/2011 dated 08.03.2012 and 31.05.2012 to take soil from particular area with certain conditions and those proceedings were cancelled by the District Collector, as the petitioners have violated the conditions. Thereafter, the case was registered and investigation is going on and charge sheet has not been filed. He further submitted that the petitioners 1 to 4 are the partners of the firm "Sun Bricks" and for running the brick business they have taken minerals from unauthorized places and therefore, the case was registered against the petitioners.

4. I am unable to accept the contention of the learned Additional Public Prosecutor. As rightly submitted by the learned Senior Counsel for the petitioners the police ought not to have registered the case on the basis of the complaint given by the second respondent. A perusal of the complaint reveals that no particulars regarding survey number, extent of land from where the minerals were taken by the petitioners without permission and a bald allegation has

been stated in the complaint that the petitioners, for the purpose of running the brick business, without getting permission and without following the rules, committed theft of minor minerals. According to me, no case can be registered on the basis of such bald allegation.

5. Further as per the counter of the first respondent, permission was initially granted to the petitioners and that was subsequently cancelled for violation of conditions, vide proceedings dated 30.08.2012 and that was challenged in W.P.No.10/2013 and this Court vide order dated 09.10.2014 set aside the proceedings dated 30.08.2014 on the basis of the report of the Revenue Tahsildar dated 03.09.2014, wherein the Revenue Tahsildar has stated that the petitioners have not taken any minerals from other places and they have taken minerals only from the place where they were given permission. As the proceedings dated 30.08.2012 was set aside and the Revenue Tahsildar has also given a report stating that the petitioners have not violated the conditions, there is no scope for registering a case against the petitioners.

6. Hence, this Criminal Original Petition is allowed and the F.I.R in Crime No.208 of 2012, on the file of the first respondent is quashed insofar as the petitioners are concerned. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar

//True Copy//

jvm

Sub Assistant Registrar

To

1. The Sub Inspector of Police,
Kumaralingam Police Station,
Tirupur.
2. The Village Administrative Officer,
Papamkulam Village, Kumaralingam.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Muthumani, Advocate, S.R.No.134961

Cr1.O.P.No.3051 of 2015

SR(CO)
CA(18/03/2015)