

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2015

CORAM:

THE HON'BLE MR.JUSTICE R.S.RAMANATHAN

CrI.O.P.No.5374 of 2015

M/s.M.G.S.Associates

Represented by its Authorized Signatory

Mr.Faisel

... Petitioner

Vs.

1.The Superintendent of Police
Coimbatore Rural
Coimbatore District.

2.The Inspector of Police
Madukarai Police Station,
Coimbatore District.

... Respondents

Prayer :

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to direct the respondent not to harass the petitioner's firm.

For Petitioner : Mr.B.Kumarasamy

For Respondent : Mr.M.Maharaja

Additional Public Prosecutor

ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

2.It is submitted by the learned counsel for the petitioner that the petitioner is the dealer of Dalmia Magnesite Corporation and he is permitted to take the Dalmia Ready Mix Mortar from one State to another State and he has got licence for that and he has been paying sales tax and other dues to the Government. However, under the pretext of checking the lorry, the second respondent police is giving harassment to the petitioner in doing business by checking the lorry and preventing the petitioner from transporting the Dalmia Ready Mix Mortar which when combined with sand, cement, polymer fibre, wall putti, leak proof chemicals it could not be easily separated.

Therefore, the second respondent may be directed not to harass the petitioner in transporting Dalmia Ready Mix Mortar.

3.It is submitted by the learned Additional Public Prosecutor that a case has been registered against the petitioner under Section 21 of the Mines and Minerals Act Development Regulation Act 1957 r/w. 36(A) 38 Tamil Nadu Mines and Minerals Concession Rules 1959 r/w. 379 and 420 of IPC and under the pretext of transporting Dalmia Ready Mix Mortar, the petitioner is transporting sand with less quantity of cement and fly ash so as to give it a colour that he is transporting only Dalmia Ready Mix Mortar and really the petitioner is transporting sand. Therefore, the petitioner vehicle was intercepted and the case was registered.

4.According to me, the second respondent police is entitled to inspect the vehicle when they suspect that the vehicle is used for transporting sand from one State to another and the act of the respondent in inspecting the vehicle cannot be considered as harassment. If really the petitioner has been transporting Dalmia Ready Mix Mortar, the same can be permitted but the petitioner cannot be permitted to transport sand under the guise of Dalmia Ready Mix Mortar and to verify whether the petitioner is transporting sand or Dalmia Ready Mix Mortar, the police is entitled to verify the quantity and quality of the material being transported in the vehicle belonging to the petitioner. Hence, the prayer sought for cannot be granted.

5.This criminal original petition is disposed of with the above observation.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Superintendent of Police
Coimbatore Rural
Coimbatore District.

2.The Inspector of Police
Madukarai Police Station,
Coimbatore District.

3.The Public Prosecutor
High Court, Madras.

1 cc to Mr.B.Kumarasamy ,Advocate, SR.No.14160

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gj (co)
pmk.17.3.2015



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