



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) Nos. 2499 and 5071 of 2015

and

M.P. (MD) Nos. 1 and 1 of 2015

1. Rabeeq Raja
2. Panneer Mohamed
3. Azad Mohammed
4. Raj Kapoor
5. Kasaniya
6. Pyrose Begum
7. Sheela Begum
8. Sakila Begum
9. Heeralal
10. Nazar

: Petitioners in Crl.O.P. (MD) No. 2499/2015

Anwar Ali

: Petitioner in Crl.O.P. (MD) No. 5071/2015

-Vs-

1. The State rep. by the Inspector of Police,
Madurai District Crime Branch, Madurai.

2. G. Alagupandian : Respondents in both Crl.O.Ps.

COMMON PRAYER: Petitions are filed under Section 482 of the Criminal Procedure Code praying to call for the entire records pertaining to the case in Crime No. 19 of 2015 on the file of the Inspector of Police, Madurai District Crime Branch, Madurai and quash the same with regard to the petitioners.

For Petitioners : Mr. R. Anand

For Respondent No. 1 : Mr. R. Raja Rathinam,
State Public Prosecutor,
Assisted by Mr. K. Anbarasan,,
Government Advocate (Crl. side)

COMMON ORDER

On the complaint lodged by one Alagupandian, Village Administrative Officer, the respondent police registered a case in Crime No. 19 of 2015 on 31.01.2015 under Sections 120-B, 447, 379, 434, 420, 304(II) of the Indian Penal Code r/w 511 of the Indian Penal Code, Section 3(1) of TNPPDL Act, Section 3(a) 4(a) of Explosive Substances Act, Sections 4(1), 4(1A) and 21 of Mines and Minerals (Development and Regulation) Act, against the petitioners and others, challenging which, the petitioners are before this Court.



2. Heard Mr.R.Anand, learned counsel for the petitioners and Mr.Raja Rathinam, learned State Public Prosecutor, assisted by Mr.K.Anbarasan, learned Government Advocate (Criminal side), appearing for the first respondent.

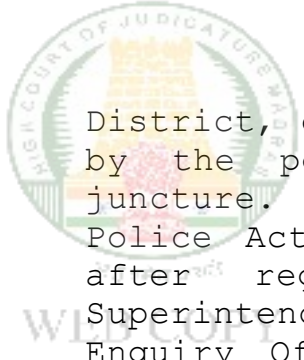
3. It is the case of the prosecution that the petitioners were granted quarry licence by the Government on 19.01.2003 for a period of 20 years in various survey numbers in Keelaiyoor Village to an extent of 1.11.5 hectares. While so, the Government received numerous complaints of illegal quarrying, pursuant to which, an Expert Committee was appointed by the Government to inspect the quarry of the petitioners. The Expert Committee inspected the quarry on 24.08.2012 and observed that the petitioners had illegally quarried in violation of licence conditions to the tune of 4440.92 cubic metres and that apart, they have also illegally quarried in the adjacent Government lands to the tune of 929.75 cubic metres, totally, amounting to 5370.67 cubic metres and had caused loss to the Government to an extent of 10.74 crores. A report was forwarded by the District Collector to the Revenue Authorities for lodging a criminal complaint against the petitioners, pursuant to which, Village Administrative officer inspected the quarry and found that the petitioners had used high power explosives to blast Government lands for illegal quarrying and had dangerously dug deep trenches without adequate safety measures with a knowledge that there would be likelihood of death being caused to men and animals. Hence, the complaint and First Information Report.

4. Mr.R.Anand, learned counsel for the petitioners submitted that the Superintendent of Police had conducted an enquiry and had given a finding that the petitioners have sold the quarry lands to one PRP Granites as early as on 26.11.2008 and, therefore, the petitioners had no role in the illegal quarrying.

5. This Court read the enquiry report dated 03.09.2013 sent by the Superintendent of Police to the District Collector. On a reading of the said enquiry report, it is seen that after the Expert Committee had conducted the inspection, the petitioners have given a representation dated 12.08.2013 to the Superintendent of Police, who seems to have conducted an enquiry and has given a report stating that the petitioners have sold the quarry to PRP Granites and, therefore, the petitioners will be liable only for violations of the conditions of licence. The District Collector, thereafter, has directed the Village Administrative Officer to lodge a complaint, based on which, First Information Report has been registered subsequently on 31.01.2015, which only shows that the District Collector has not been carried away by the report dated 03.09.2013 submitted by the Superintendent of Police.

<https://hcservices.ecourts.gov.in/hcservices/>

6. In the considered opinion of this Court, it is not known under what authority of law, the Superintendent of Police, Madurai



District, conducted the enquiry, based on the representation given by the petitioners, who were the proposed accused at that juncture. The police are required to act only in terms of the Police Acts and conduct investigation in terms of Chapter XII, after registration of a First Information Report. The Superintendent of Police cannot arrogate himself the power of an Enquiry Officer in matters relating to an offence and give a report in such a manner that it would thwart any lawful investigation under Chapter XII of the Code of Criminal Procedure. However, the District Collector has rightly rejected the report of the Superintendent of Police and has directed the revenue authorities to initiate criminal prosecution against the petitioners for the offences of illegally quarrying both within the licensed area as well in Government poramboke lands. As regards the contention of the petitioners that they had sold the lands to PRP Granites, these are facts which can be unearthed only during the course of investigation by the police under Chapter XII of the Code of Criminal Procedure.

7. In the result, the facts of this case does not pass muster the law laid down by the Supreme Court in **AIR 1992 SC 604 [State of Haryana v. Bhajan Lal]** warranting quashment of First Information Report.

8. In the result, these Criminal Original Petitions are dismissed with a direction to the respondent police to thoroughly investigate the case and during the course of investigation, if it is found that P.R.P. Granites, in collusion with the petitioners, had illegally quarried the lands in question, it is needless to state that they should also be brought to book. The Investigating Officer is directed to conduct the investigation without in anyway being influenced by the observation as stated above. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(AS)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
District Crime Branch, Madurai District.
 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 cc to Mr.R.Anand, Advocate, SR.No. 53670

**Common Order made in
CRL.O.P. (MD) Nos.2499 and 5071 of 2015**

Dated: 21.04.2017