



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.04.2017

CORAM:

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

CRL.O.P. (MD) No.3713 of 2015

and

M.P. (MD) No.1 of 2015

WEB COPY

1.P.Periyasamy
2.P.Babu @ Krishnamoorthy
3.P.Arunraja : Petitioners

-Vs-

1.The State Rep. by its,
The Inspector of Police,
District Crime Branch,
Madurai District,
Madurai.
(Cr.No.20 of 2015).
2.A.Mohammed Ali : Respondents

PRAYER: Petition is filed under Section 482 of the Criminal Procedure Code to call for the records of the case in Crime No.20 of 2015 on the file of the first respondent police and quash the same.

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

O R D E R

On the complaint lodged by Mr.Mohammed Ali, Village Administrative Officer, the respondent police registered a case in Crime No.20 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(i), 4(i/A) 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.S.Saravanakumar, 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.



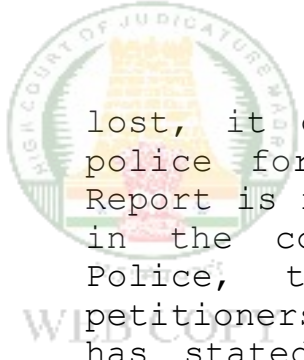
3. Admittedly, P.Periyasamy (the first petitioner) was granted lease to quarry granites in various survey numbers in E.Malampatti Village, to an extent of 1.23.5 Hectares for a period of 20 years from 29.10.2003 to 29.10.2023. While so, an inspection was conducted by an Expert Body on 07.08.2012 and 09.10.2012 and it was found that around 9711.98 cubic metres and 4254.20 cubic metres of granites have been illegally quarried from the Government lands and water- bodies, in violation of licence conditions, thus, totally, amounting to 13,966.18 cubic metres. It was also found that the petitioners had used explosive substances for illegal quarrying and had dug deep trenches without adequate safety measures with a knowledge that there would be likelihood of loss of human life. A report was submitted to the District Collector in this regard and after inspection, the Village Administrative Officer gave a complaint, based on which, the First Information Report has been registered.

4. Mr.S.Saravanakumar, learned counsel for the petitioners submitted that (i) the petitioners had sold the quarry to one P.R.P.Granites, as early as on 10.07.2008 and, therefore, they had not done the illegal quarry; (ii) that the District Collector had also issued a show cause notice dated 29.01.2011, in which, the irregularity mentioned in the First Information Report does not figure; and (iii) in reply the show cause notice, the petitioners had given a representation and on the representation, the Superintendent of Police, Madurai District, has sent a communication dated 03.09.2013, to the District Collector, wherein, it is stated that the petitioners had sold the quarry land to P.R.P.Granites on 10.07.2008 and that patta has also been changed in the name of P.R.P. Granites, vide patta No.2651. Therefore, the entire prosecution is an abuse of process of law and deserves to be quashed.

5. Per contra, the learned State Public Prosecutor refuted the contentions.

6. This Court gave its anxious consideration to the rival submissions.

7. As regards the first contention, just because, in the show cause notice dated 29.01.2011, the District Collector had not mentioned about the violations, that does not mean that the Expert Committee, which inspected the quarry subsequently on 07.08.2012 and 09.10.2012, should remain mute. May be the Collector, for various reasons, would have missed these aspects, but, that cannot in anyway vitiate the subsequent inspection report by the Expert Committee. For example, when a theft takes place in a house, the owner may give a complaint in respect of loss of certain things, which are obvious and after registration of First Information Report, if he finds that some more things have been



lost, it does not mean that he cannot inform the same to the police for retrieving those articles also. First Information Report is not an encyclopedia of the prosecution case. That apart, in the communication dated 03.09.2013, the Superintendent of Police, though mentions about the transaction between the petitioners and P.R.P. Granites, yet, the Superintendent of Police has stated that the involvement of the petitioners and P.R.P. Granites requires to be investigated. It is seen that the First Information Report was registered on 31.01.2015 and this Court has granted stay of the investigation on 10.03.2015. There has not been any breathing time for the police to proceed with the investigation.

8. In the considered opinion of this Court, 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.

9. In the result, this quash application is dismissed with a direction to the respondent police to proceed with the investigation and during investigation, if it is found that the said P.R.P. Granites were also part of this theft, it is needless to state that those involved should also be brought to book. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS II)

/True Copy/

Sub Assistant Registrar

To

- 1.The Inspector of Police,
District Crime Branch,
Madurai District,
Madurai.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CRL.O.P.(MD) No.3713 of 2015
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