



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.10.2017

CORAM:

THE HONOURABLE MR. JUSTICE S.S.SUNDAR

CRL.OP.(MD).No.14631 of 2017

and

CRL.M.P.(MD)No.9757 of 2017

R.Alben

... Petitioner/Accused No.2

Vs.

1. The Inspector of Police,
Koppampatti Police Station,
Tuticorin District.
(Crime No.15 of 2017)

... 1st Respondent/Complainant

2. Sabarullakkan

... 2nd Respondent/Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records and quash the First Information Report in Crime No.15 of 2017 on the file of the Inspector of Police, Koppampatti Police Station, Thoothukudi District registered against the petitioner for the offence under Sections 447, 379 of I.P.C., and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

For Petitioner : Mr.G.Cenil

For R-1 : Mr.K.S.Durai Pandiyan,
Additional Public Prosecutor.

ORDER

This Criminal Original petition is filed for quashing the First Information Report in Crime No.15 of 2017 on the file of the first respondent registered against the petitioner for the offence under Sections 447, 379 of I.P.C., and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.



2. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the first respondent.

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3. The petitioner has been shown as second accused, when the complaint was lodged by the second respondent. Based on the complaint lodged by the second respondent, a case was registered in Crime No.15 of 2017 for the alleged offences under Sections 447, 379 of I.P.C., and Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957.

4. The complaint discloses a cognizable offence. The contention of the petitioner is that he has not involved in any crime and that it is only the first accused who has indulged in such illegal quarry based on the licence he had from the petitioner.

5. It is now well settled that truth or otherwise of the allegations made in the complaint cannot be decided at this stage where the petition is to quash the complaint/First Information Report. It is open to the petitioner who has been shown as accused to let in evidence or materials that he has not involved and that the allegations are only based on mere presumption and assumption. Since the second respondent/defacto complainant should also be given a fair opportunity to prove his case in the complaint, this Court is not inclined to entertain this petition. Hence, the Criminal Original petition is dismissed. Consequently, connected Miscellaneous petition is closed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



1. The Inspector of Police,
Koppampatti Police Station,
Tuticorin District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.G.CENIL, Advocate SR.No.84868.

Cr1.O.P. (MD) .No.14631 of 2017
31.10.2017

pmu
SDS/KK/SAR 2/15.11.2017/2P/4C