



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 12.12.2017
CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Cr1.O.P. (MD) No.15355 of 2017
and
CMP (MD) No.10212 of 2017

P.Ignacy Muthu @ Kannan

... Petitioner

Vs.

1.The State rep. by
The Inspector of Police,
Vaiyampatti Police Station,
Manapparai Taluk, Trichy District.
Crime No.102 of 2014

2.K.Marimuthu

... Respondent

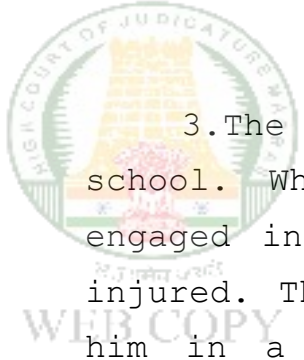
Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records of the F.I.R. in crime No.102 of 2014 pending on the file of the Vaiyampatti Police Station, Manappatai Taluk, Trichy District and quash the same.

For Appellant : Mr.V.Muthukamatchi
For Respondent : Mr.K.S.Duraipandian, APP

JUDGMENT

The petitioner Ignacy Muthu @ Kannan, son of Pitchaimuthu has filed this petition under Section 482 of Cr.P.C. for quashing the impugned FIR in crime No.102 of 2014 on the file of the Inspector of Police, Vaiyampatti Police Station, Manapparai Taluk, Trichy District. At the instance of one Marimuthu, the said FIR was registered on 05.05.2014 for the offence under Sections 5 read with 9(B) (1) (b) of Explosives Act, 1884 and 337 of I.P.C.

2.It is stated in the said FIR that the said Marimuthu is engaged in the work of stone quarrying. He and his brother were working under one Pitchaimuthu, who happens to be the father of the petitioner herein. The said Pitchaimuthu had been licensed to run a quarry. The District Collector, Trichy had entered into a lease agreement with the said Pitchaimuthu on 04.06.2012. The lease is for a period of 10 years.



3.The petitioner is working as a Teacher in a Government aided school. While so, on 01.05.2014, when the said Marimkuthu was engaged in blasting operations, an explosion occurred and he was injured. Thereupon, he informed the petitioner herein who admitted him in a private hospital. Intimation was received from the hospital. The first respondent police went to Government Hospital, Manapparai and recorded the statement of Marimuthu and based on the same, registered the impugned F.I.R.

4.The petitioner herein was shown as the sole accused in the said case. There is nothing on record to connect the petitioner with the offences in question. Even in the FIR, the defacto complainant states that he informed owner's son Kannan, who is the petitioner herein. Thus, there is intrinsic evidence in the FIR that the petitioner is not the owner of the quarry in question. Admittedly even the license stands in the name of Pitchaimuthu, father of Kannan.

5.It is settled law that this Court while exercising its jurisdiction under Section 482 of Cr.P.C., can look into the defence documents that are unimpeachable in nature. The lease agreement dated 04.06.2012 was one executed by the District Collector, Trichy. Therefore, its authenticity cannot be questioned. The petitioner herein has also enclosed an award dated 03.07.2017 made in W.C.No.234 of 2014 on the file of the Deputy Commissioner of Labour, Trichirappalli. Though the injured workman Marimuthu made Pitchaimuthu as well as the petitioner herein as respondents, the Deputy Commissioner of Labour, Trichirappalli has given a finding that there was employer-employee relationship only with Pitchaimuthu. This Court would be entitled to take the said award dated 31.07.2017 into consideration. Thus, viewed from any angle, there is no prima facie material against the petitioner herein so as to make him as accused in this FIR.

6.I therefore allow this petition and quash the FIR insofar as the petitioner is concerned. It is made clear that quashing of this



FIR on the ground that the petitioner is not connected with the offences in question would not mean that the police cannot file any final report. As already pointed out, it is only the father of the petitioner viz., Pitchaimuthu, who was actually running the quarry in question. If the first respondent police forms opinion that the said acts or omission of the said Pitchaimuthu constituted offences under law, it is certainly open to the first respondent/investigating officer to file a final report making him as accused. Relief granted to the petitioner is this petition will not mean that the first respondent cannot file a final report against the real accused. The first respondent is entitled to proceed with the investigation and file a report before the concerned Court.

7. With this observation, this criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Vaiyampatti Police Station,
Manapparai Taluk, Trichy District.

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

3. The Record Keeper, Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 Copies)

+1cc to M/S.V.Muthukamatchi, Advocate SR.No.92403.

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