



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.05.2017

CORAM

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Crl.O.P.(MD) No.20706 of 2016

and

Crl.M.P.(MD) Nos. 10528 and 10529 of 2016

Snehalin Sujatha @ Sneha Ajay

... Accused / Petitioner

-vs-

1.State represented by,
The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
(Crime No.220 of 2012)

... 1st Respondent/Complainant

2.The Village Administrative Officer,
Kalkulam I/c., Velimalai,
Kanyakumari District.

... 2nd Respondent/De-facto
Complainant

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., praying to call for the records in S.C.No.234 of 2016 on the file of the Learned Assistant Sessions Judge, Padmanabhapuram and quash the same.

For Petitioner

: Mr.K.N.Thambi

For R1

: Mr.K.Anbarasan,

Government Advocate (Crl. Side)

O R D E R

The petitioner is admittedly the owner of a Quarry in Survey No.3/4B and was given quarry lease by the Government to quarry Blue Stone. Initially, an inspection team conducted inspection in the quarry and found certain irregularities in the quarrying done by the petitioner. Based on the complaint lodged by the second respondent Village Administrative Officer, the Inspector of Police, Kotticode Police Station, registered a case in Crime No.220 of 2012 under Section 4 read with Section 21(2) of the Mines and Minerals Act 1957 and Section 3(1) of the Tamil Nadu Property (Prevention of Damages and Loss) Act, 1992. Thereafter, the Inspector of Police, Thuckalay Police Station, has filed a

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complaint against the petitioner before the learned Assistant Session Judge, Padmanabhapuram for offences under Sections 4(1) and 4(1A) of the Tamil Nadu Mines and Minerals (Regulation and



Development) Act, 1957, challenging which, the petitioner is before this Court.

2.Mr.K.N.Thampi, learned Counsel appearing for the petitioner, submitted that after registering the FIR against the petitioner, the present prosecution is an abuse of process of law, in as much as, the respondent police are using the materials collected during the investigation in Crime No.220 of 2012 against the petitioner and hence, the prosecution should be quashed.

3.Per contra, the learned Government Advocate refuted the contentions.

4. This Court gave its anxious considerations to the rival submissions.

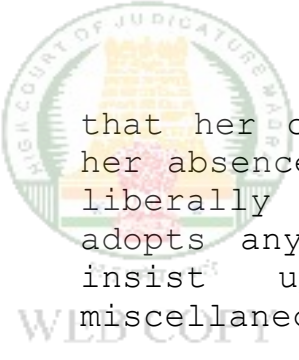
5. A Magistrate cannot take cognizance of the offence under the Mines and Minerals Act on a police report under Section 173 of the Code of Criminal Procedure. This matter has been settled by the Hon'ble Division Bench of this Court in **Sengol and others V. State [2012(2)CTC369]**, that a prosecution can be launched under the said Act only on a complaint given by the person authorised under the said Act.

6. It is beyond cavil that the Inspector of Police in the State of Tamil Nadu are empowered to launch prosecution under the said Act by filing the complaint before the Magistrate. In this case, this procedure has been adopted by the Inspector of Police and only thereafter, the case has been committed to the Court of Sessions. Hence, this Court does not find any infirmity in the proceedings initiated against the petitioner warranting interference.

7. In the result, this petition is devoid of merits and the same is dismissed with liberty to the petitioner to raise all the defences before the trial Court. Whatever stated above is only for the limited extent of deciding this quash application and the trial Court shall proceed with the trial without being in any manner influenced by whatever stated above.

8. At this juncture, the learned counsel for the petitioner prays that the presence of the petitioner before the trial Court may be dispensed with.

9. The presence of the petitioner before the trial Court is dispensed with and the petitioner shall appear before the Trial Court for collecting the final report and other papers under Section 207 Cr.P.C., for framing the charges, for questioning under Section 313 Cr.P.C. and on the day of judgment. On all other dates, if the petitioner files an application under Section 317 Cr.P.C., undertaking that she will not dispute her identity and



that her counsel will cross-examine the prosecution witnesses in her absence without adopting dilatory tactics, the Trial Court may liberally consider and entertain the same. If the petitioner adopts any dilatory tactics, it is open to the Trial Court to insist upon her presence. Consequently, the connected miscellaneous petitions are closed.

SD/-

ASSISTANT REGISTRAR (AD-II)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1. The Assistant Sessions Judge,
Padmanabhapuram
2. The Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.
3. The Village Administrative Officer,
Kalkulam I/c., Velimalai,
Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC TO MR.K.N.THAMPI, ADVOCATE, SR NO.55522

MRN/CMR/RR

MAS/SV-MMS/SAR3:11.05.2017:3P-6C

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