



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 10 .01.2017

CORAM:

THE HON'BLE MR.JUSTICE G.CHOCKALINGAM

Cr1.O.P. (MD) No.22092 of 2016

and

Cr1.M.P (MD) Nos.11416 and 11417 of 2016

1.N.Ravi

2.P.Kandhasamy

: Petitioners/Accused

Vs.

The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.

: Respondent/Complainant

Prayer: This petition is filed under Section 482 of Cr.P.C., to call for the records in C.C.No.100 of 2016 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioners : Mr.M.Gururaj

For Respondent : Mr.A.P.Balasubramani

Government Advocate (Criminal side)

O R D E R

This petition is filed to call for the records pertaining to the case in C.C.No.100 of 2016 on the file of the learned Judicial Magistrate No.II, Virudhunagar and quash the same.

2.The learned counsel appearing for the petitioner would submit that in this case, the charge sheet filed by the respondent police is baseless and nonest and that the petitioner was not at all present in the place of occurrence and that the respondent has arrested and seized the vehicles in the place of occurrence before the police witness and that the occurrence said to have taken place in an individuals private property, but the respondent had chosen to file a case under Section 379 IPC along with Section 21 (5) of Mines and Minerals Act, 1957 and that the petitioner has been arrayed as A1 only based upon the confession statement obtained from the other accused persons recorded before the police witness and that the complaint does not disclose as to whether the other accused were involved in illegal sand lifting to invoke provision of Section 21(5) of Mines and Minerals Act and there is no mention about the accused, being in possession or not in possession of valid transport receipts issued by the Revenue Department for transportation of sand and that the the Station house Officer, who registered the complaint against the petitioner and others in Crime No.385 of 2015 has himself conducted enquiry and file the charge sheet, which is *per se* illegal and barred by law. Hence, the charge sheet filed against the petitioner is liable to be quashed.



3.The learned Government Advocate (Criminal side) would submit that since, prima facie materials are available to presume that the petitioner would have committed the alleged offence, the respondent police has rightly registered the FIR as against the accused persons and final report has been filed in C.C.No.100 of 2016 and hence, the petition filed by the petitioner has to be dismissed.

4.This court has carefully heard the arguments made on either side and perused the materials available on record.

5.In this case, the petitioner has been arrayed as A1. On reading of the complaint and the statement of witnesses recorded by the police, it is found that prima facie materials are available against the accused persons and it is presumed that the the petitioner along with the other accused would have committed the alleged offences. Whether the evidence and the statements recorded by the police is true or not is the question to be decided at the time of trial, after recording the evidence on both sides. Hence, the argument of the learned counsel for the petitioner that no incriminating materials are available against the petitioner and hence, the charge sheet filed against the petitioner has to be quashed, has no merit.

6.In view of the above circumstances, since there are prima facie materials are available against the accused persons, the petition filed by the petitioner to quash the charge sheet is not at all maintainable in law. Hence, this court is of the considered view that the relief sought by the petitioner cannot be granted.

7.In the result, this criminal original petition is dismissed. The trial court is directed to post the case on day today basis and dispose of the case in C.C.No.100 of 2016 on merits and in accordance with law, within a period of twelve weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To,

- 1.The Judicial Magistrate No III, Virudhunagar,
 - 2.The Inspector of Police, Kariyapatti Police Station,
Virudhunagar District.
 - 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +1 cc to MR.M.Gururaj, Advocate, SR.NO:2093

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