



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 19.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH
Crl.R.C.(MD) No.825 of 2016

and

Crl.M.P(MD)No.12086 & 12087 of 2016

WEB COPY

A.G.Gopal

... Petitioner / Accused No.2

vs.

The Inspector of Police
Vikramangalam Police Station
Usilampatti
Madurai District

... Complainant / Respondent

PRAYER: Criminal revision filed, under Sections 397 and 401 Cr.P.C., to call for the records in Crl.M.P.No.4054 of 2016 in PRC No.04 of 2016 pending on the file of the learned Judicial Magistrate No.II, Usilampatti and revise the same and consequently allow the petition filed in Crl.M.P.No.4054 of 2016 in PRC No.04 of 2016 pending on the file of the learned Judicial Magistrate No.II, Usilampatti.

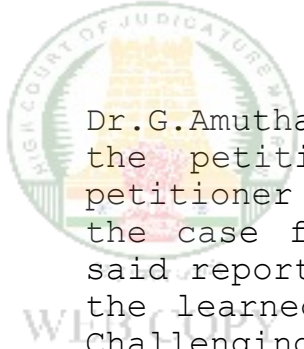
For Petitioner	: Mr.N.Mohideen Basha
For Respondent	: Mr.C.Mayilvahana Rajendran Additional Public Prosecutor

O R D E R

The petitioner is the owner of a Quarry by name, K.S.N & Company having obtained quarrying licence in the year 2005 from the Government of India. He was operating the quarry from 2005 to 2010. It is alleged that in the year 2010, he entered into a contract with P.R.P.Granites for running the Quarry and that P.R.P.Granites and the petitioner herein conspired to quarry more than the licensed limit. Therefore, a case in Crime No.142 of 2013 was registered on 20.12.2013 and after completing the investigation, the respondent - Police have filed a final report in P.R.C.No.4 of 2016, before the learned Judicial Magistrate No.II, Usilampatti, for the offences under Sections 120-B, 447, 379, 420, 434, 465, 467, 468, 471, 304 (ii) r/w 511, 109, 114 I.P.C., Section 3(1) TNP (PD&L) Act and Sections 6 & 3(a), 4(a) of Explosive Substances Act, 1908, in which the petitioner has been shown as A2.

2. This petitioner filed an application in Cr.M.P.No.4054 of 2016 in P.R.C.No.4 of 2016 stating that he suffers from mental illness and from the year 2002 he was taking treatment under Dr.Vijayakumar and therefore, the prosecution initiated against him should not proceed further.

3. The learned Judicial Magistrate No.II, Usilampatti, referred the petitioner for examination to the Government Rajaji Hospital, Madurai, wherein he was examined by Dr.M.R.Vairamuthurajan and



Dr.G.Amutha of Psychiatry Department. The Doctors, after examining the petitioner, have given a certificate certifying that the petitioner does not suffer from any mental illness and he can defend the case filed against him without any difficulty. Based on the said report, the petition in Cr.M.P.No.4054 of 2016 was dismissed by the learned Judicial Magistrate No.II, Usilampatti, on 09.11.2016. Challenging the same, the present revision has been filed.

4. Heard Mr.N.Mohideen Basha, learned counsel for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondent - Police and perused the materials filed in the form of typed set.

5. The learned counsel for the petitioner submitted that the Doctors, who examined the petitioner, have stated that the petitioner does not suffer from any mental in presenti and that they had failed to give any finding with regard to the mental status of the petitioner at the time of the offence.

6. Per contra, Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor for the respondent - Police refuted the contentions of the learned counsel for the petitioner.

7. This Court carefully perused the impugned order dated 09.11.2016 in Cr.M.P.No.4054 of 2016 in P.R.C.No.4 of 2016, passed by the learned Judicial Magistrate No.II, Usilampatti, wherein the learned Judicial Magistrate has given cogent reasons for dismissing the claim of the petitioner. According to the petitioner, he was taking treatment from the year 2002 under Dr.Vijayakumar. Assuming for a moment that the petitioner had been mentally ill, he should not have obtained the licence to quarry from the Government in the year 2005, because the licence to carry on quarry operations is a contract between the Government and the individual and the individual, who is mentally fit, can only enter into such a contract. The fact remains that the petitioner himself was running the quarry from 2005 and therefore, it cannot be said that he was mentally unsound during the period of offence. It was the further allegation that in the year 2010, he entered into a contract with P.R.P.Granites for running the Quarry un-authorisedly. This itself shows that the petitioner was of sound-mind when he handed over the mining operation to P.R.P.Granites. The petitioner cannot blow hot and cold at the same time. In such view of the matter, this Court does not find any infirmity in the order passed by the Court below warranting interference.

8. In the result, the criminal revision is devoid of merits and it is dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

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Sub Assistant Registrar



To:

1.The Judicial Magistrate No. II,
Usilampatti.

2.The Inspector of Police,
Vikramangalam Police Station,
Usilampatti,
Madurai District.

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

Crl.R.C.(MD) No.825 of 2016
and
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