



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.06.2018

CORAM:

THE HONOURABLE MR. JUSTICE G.R.SWAMINATHAN

Cr1.O.P. (MD) .No.21496 of 2013

and

M.P (MD) No.1 of 2013

Janakiram

...Petitioner/Accused -2

Vs.

1. The State Rep. by
The Inspector of Police,
Pudhiyamputtur Police Station,
Pudhiyamputtur,
Tuticorin District. ...1st Respondent/ Complainant

2.A.V.Leno ...2nd Respondent/ Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to Charge Sheet in C.C.No.113/13 filed by the respondent police pending on the file of Judicial Magistrate-I, Thoothukudi and quash the same with regard to the petitioner.

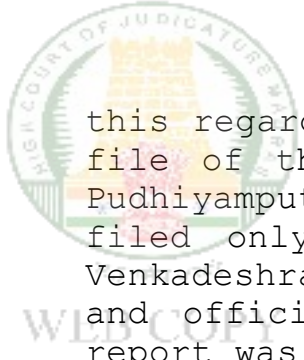
For Petitioner : Mr.U.Karunakaran

For R-1 : Mr.A.Robinson,
Government Advocate(Cr1.side).

For R-2 : Mr.A.Thiruvadikumar

O R D E R

The petitioner herein is figuring as the second accused in C.C.No.113 of 2013, on the file of the Judicial Magistrate No.I, Thoothukudi. The *de facto* complainant in this case is the second respondent. The second respondent is the owner of patta land bearing No.202/1 in Pudurpandiyapuram Village, Ottapidaram Taluk. The land measures 5 Acres and 35 Cents. It is adjacent to a poromboke land from which M/s Madukan Project Limited was permitted to quarry minerals. The said company is a well known highways contractor engaged in laying roads. It is the specific allegation of the second respondent that the sand mineral worth about Rs.42,00,000/- was unlawfully removed from her land. In



this regard, she filed Criminal case in Crime No.49 of 2009 on the file of the Inspector of Police, Pudhiyamputtur Police Station, Pudhiyamputtur. After investigation was over, final report was filed only against the petitioner and the contractor by name, Venkadeshrao, who was the Project Manager. The other contractors and officials of the said company were deleted when the final report was filed.

2. It is the specific submission of the second respondent that she was not put on notice prior to such deletion. The Hon'ble Supreme court in the **(1985) 2 SCC 537-(Bhagwant Singh Vs. Commissioner of Police)** has held that when filing a final report if certain persons are deleted from the charge sheet or when offences are also dropped, the *de facto* complainant ought to be put on notice so that he or she can file a Protest Petition. In this case, this binding procedure was not observed.

3. This Court expresses its complete dissatisfaction over the manner in which the investigation was conducted and final report was filed. This Court can very easily discern that the petitioner has been unlawfully deprived of her valuable property. The beneficiary of the crime is the company in question. Therefore, proper investigation ought to have been conducted so as to fasten penal liability on the company. Only then the *de facto* complainant can be compensated on the conclusion of the trial. It appears that the investigation was conducted in such a manner so as to ensure that actually guilty are allowed to go scot-free and two innocent hapless employees of the company are roped in. It appears that the object was to fix two hapless employees and leave away the prime accused. This Court is therefore of the view that the proceedings deserve to be quashed in so far as the petitioners are concerned.

4. But the matter cannot rest there. The Superintendent of Police, Thoothukudi District is directed to appoint the competent officer to conduct re-investigation in the matter and file a fresh final report. The entire proceedings in C.C.No.113 of 2013 stands quashed and such fresh final report shall be filed within a period of three months from the date of receipt of a copy of this order.

5. With this direction, this Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-I)

/True Copy/



To

1. The Judicial Magistrate-I, Thoothukudi

WEB COPY

2. The Inspector of Police,
Pudhiyamputtur Police Station,
Pudhiyamputtur, Tutricorin District.

3. The Superintendent of Police,
Thoothukudi District.

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

+ 2 ccs TO Mr.A.K.Manickam , Advocate in SR No. 68450

+ 1 cc TO Mr.A.Thiruvadi Kumar , Advocate in SR No. 68516

tsg/cp

AE/JC/SAR4/27.06.2018/3P/8C

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