



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 23.01.2018
CORAM
THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Cr1.O.P(MD)No.6760 of 2011
and M.P(MD)No.1 of 2011

WEB COPY

1.Balamurugan Company Sivayam,
Krishnarayapuram Taluk,
Karur District,
Rep. By its Manager,
R.Muthuvadivu

2.Balamurugan Company Sivayam,
Krishnarayapuram Taluk,
Karur District,
Rep. By its Manager,
K.Karthikeyan

3.Balamurugan Company Sivayam,
Krishnarayapuram Taluk,
Karur District,
Rep. By its Manager,
Bazith

... Petitioners/Accused Nos.1 to 3

Vs.

Sakthivel

... Respondent/Complainant

Prayer:- Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.51 of 2011 pending on the file of the Judicial Magistrate No.II, Kulithalai and quash the same.

For Petitioner	: Mr.K.K.Ramakrishnan for Mr.S.Vellaichamy
For Respondent	: No appearance

ORDER

The petitioners are arrayed as accused Nos.1 to 3 and came forward to file this Original Petition praying for quashing of the private complaint in C.C.No.51 of 2011 on the file of the Court of the Judicial Magistrate No.II, Kulithalai, instituted by the respondent/private complainant.

2.The said complaint has been filed seeking prosecution of the petitioners under Section 49(1)(b) of the Water (Prevention and Control Pollution) Act, 1974 and under Section 43(1)(b) of the Air (Prevention and Control Pollution) Act, 1981.



3.It is the case of the respondent/private complainant that the first respondent has established a Company in Sivayam South Village in Survey No.1210/3, for separating garment mineral and it is categorised as a red category and without getting any clearance from the Tamil Nadu Pollution Control Board, as to the Air and Water Pollution, has commenced operation and therefore, sought for prosecution of the petitioners.

4.The learned counsel appearing for the petitioners has drawn the attention of this Court to Section 25 of the Air (Prevention and Control of Pollution) Act, 1981 as well as to Section 21 of the Water (Prevention and Control of Pollution) Act, 1974 and would submit that the respondent/private complainant has no locus standi to file the complaint for the reasons that the applications have been submitted seeking clearance under the said Act and would submit that applications given have not been disposed and under Sub-Section 7 of Section 25 of the Air (Prevention and Control of Pollution) Act, 1981, there is a deeming provision and would further add that subsequent to the filing of the quash petition, the mining of the garments has been banned and the petitioners not even commenced operations and hence, prays for quashment of the same.

5.Though the respondent/private complainant has been served with notice and his name has also been printed in the cause-list, there is no representation on his behalf.

6.In the light of Sub-Section 7 of Section 25 of the Air (Prevention and Control of Pollution) Act, 1981, there is a deeming provision and it is the specific stand of the petitioners that the application has been submitted and though they are entitled to commence operation, on account of the deeming provision, they have not commenced the mining operation due to law and order and as such they have not even commenced the mining operation.

7.In the light of the same, this Court is of the considered view that the continuance of the prosecution in C.C.No.51 of 2011 on the file of the Court of the Judicial Magistrate No.II, Kulithalai, would result in miscarriage of justice and no useful purpose would also be served to continue the trial of the said case.

8.In the result, this Criminal Original Petition is allowed and the proceedings in C.C.No.51 of 2011 on the file of the Court of the Judicial Magistrate No.II, Kulithalai are quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1.The Judicial Magistrate No.II,
Kulithalai.

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

+1cc to M/S.K.K.Ramakrishnan, Advocate SR.No. 43952

CrI.O.P (MD) No.6760 of 2011
and M.P (MD) No.1 of 2011
23.01.2018

PS

JM/KK/SAR 3/08.02.2018/3P/4C