

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.04.2019

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN
CRL.O.P.No. 9413 of 2019 and
CRL.M.P.Nos.4952 and 4953 of 2019

1.Ulaganathan
2.Veerapandiyan ... Petitioners/Accused
Vs.

The State rep. by
Sub-Inspector of Police,
Bhuvanagiri Police Station,
Bhuvanagiri,
Cuddalore District.
(Crime No.210 of 2018) ... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records and quash the charge sheet in C.C.No.34 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Portnovo, Cuddalore District.

For Petitioner : Mr.G.Pugazhenthirai
For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to quash the proceedings in C.C.No.34 of 2019 on the file of the District Munsif cum Judicial Magistrate Court, Portnovo, Cuddalore District, thereby taken cognizance for the offences under Sections 143, 341 and 188 of I.P.C as against the petitioner.

2.The case of the prosecution is that on 02.09.2018, on a routine checkup the respondent police seized a lorry transporting river sand illegally. The 1st petitioner/A1 is the owner of the lorry and the 2nd petitioner/A2 is the driver of the lorry. On the basis of the above said allegation, the respondent police registered the complaint in Crime No.210 of 2018 and filed a charge sheet against the petitioners for the offences under Section 379 IPC and Section 21(1) of Mines and Minerals Act in C.C.No.34 of 2019, on the file the learned District Munsif cum Judicial Magistrate, Portnovo, Cuddalore District.

3.The learned counsel for the petitioners, apart from raising other grounds has raised one important issue which is covered by the Judgement of the Honourable Supreme Court in the case of Mohan Lal Vs. The State of Punjab, in Crl.A.No.1880 of 2011, dated 16.08.2018.

4. It is seen from the records that the F.I.R was registered by the Sub-Inspector of Police, Bhuvanagiri Police Station, Cuddalore District and the same Officer has investigated the case and has also filed a final report. Therefore, the entire investigation is vitiated. The facts of the case is squarely covered by the Judgement of the Supreme Court referred supra. The Honourable Supreme Court has held that the same person cannot be a complainant and also an investigating Officer.

5.In view of the above, the final report filed by the respondent Police is vitiated and the same is liable to be quashed by this Court. Accordingly, the proceedings in C.C.No.34 of 2019, on the file of the learned District Munsif cum Judicial Magistrate, Portnovo, Cuddalore District, is hereby quashed. Accordingly, the Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

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To

1.The District Munsif cum Judicial Magistrate,
Portnovo,
Cuddalore District.

2.The Sub-Inspector of Police,
Bhuvanagiri Police Station,
Bhuvanagiri,
Cuddalore District.
(Crime No.210 of 2018)

3.The Public Prosecutor,High Court, Madras.
+lcc to Mr.G.Pugazhenthir , Advocate SR.No. 33861

CRL.O.P.No.9413 of 2019

and

CRL.M.P.Nos.4952 and 4953 of 2019

A.SK(17/05/2019)