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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2021

Coram

The Hon'ble Mr. Justice P.N.PRAKASH
and
The Hon'ble Mr. Justice V.SIVAGNANAM

Crl.O.P.(MD).No.11895 of 2019
and Crl.M.P.(MP).No.7476 of 2019

S.R.Kumar,
S/o.S.P.Rangasamy,
No:18, Cenotaph Second Lane,
Teynampet,
Chennai - 600 018.

.. Petitioner/A2

Vs.

Directorate of Enforcement,
Represented by its Joint Director,
Government of India,
2nd and 3rd Floors, "C" Block,
No.84, Greams Road,
Thousand Lights,
Chennai - 600 006.

2.The Assistant Director,
Directorate of Enforcement,
Government of India,
Madurai Sub-Zonal Office,
Old No.42, New No.6, Besant Road,
Chokkikulam, Madurai - 624 002.

.. Respondents/
Complainant

Criminal Original Petition filed under Section 482 Cr.P.C.
to call for the records in E.C.I.R.01/MDS ZO/2018 date not known
to the petitioner, on the file of the 2nd respondent and quash
the same against the petitioner.

For Petitioner : Mr.B.Kumar, Senior Counsel
for Ms.M.Sneha
For Respondents: Mr.Rajnish Pathiyil
Special Public Prosecutor (ED)

ORDER

[Order of the Court was made by P.N.PRAKASH, J.]

This criminal original petition has been filed seeking to



call for the records in E.C.I.R.01/MDS ZO/2018 (date not known to the petitioner), on the file of the 2nd respondent and quash the same against the petitioner.

2. The petitioner is challenging the Enforcement Case Information Report that has been registered by the Enforcement Directorate. The E.C.I.R. reads as under:

"7.Materials relating to commission of offence and reason to believe that an offence of money laundering has been committed and assessment thereof: Based on a complaint filed by the VAO of Navinpatti Village, Melur Taluk, Madurai, FIR 193/13 was registered under Section 447, 379 of IPC along with applicable sections of Tamil Nadu property Prevention of Damage and Loss Act of 1992 and the Mines and Minerals Development Regulation.

In the said FIR No:193/13, it was alleged that M/s.Galaxy Enterprises situation at No:45, Parthasarathy Street, Triplicane, Chennai 600 005 was granted license on 09.09.1993 to quarry for granite blocks in a land measuring 8 acres 67 cents. Whereas, during the inspection of the said licensed site by the said VAO, it was noted that M/s Galaxy Enterprises have trespassed and illicitly quarried in the adjacent land and caused damage to the environment. As a Power of Attorney of M/s Galaxy Enterprises, the aforesaid D.Rajapandian of Perambalur was looking after the entire activities of M/s Galaxy Enterprises.

The Geology & Mining Department had submitted their evaluation report. It is seen from the said evaluation report that M/s Galaxy Enterprises was granted license vide G.O.3D.No.68 dated 09.09.1993 for ten years from 01.11.1993 to 31.10.2003 and that they have ascertained from the Mines Office Records that the quarry operations were carried out under High Court direction in W.P.No.28979/2003 in W.P./M.P.No.35184/2003 dated 18.12.2007.

It is also seen from the above evaluation report that Galaxy enterprises have not only quarried over and above the permitted quantity in their own leasehold area but also encroached and trespassed the adjacent areas of Mukkandra Malai, Poromboke land and Kallan Pitchai Kullam tally measuring 19066.77 CBM and total loss caused to the Government excluding the cost of renovation is Rs.38.13 crores and the cost of renovation is Rs.6.096 lakhs.



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Further, Inspector of Police, Virudhunagar Police Station (Crime) has filed the charge sheet against FIR 193/13 before the Honourable Judicial Magistrate, Melur, in the month of August 2016 invoking various section of IPC, TNP(PDL) Act, 1992 and MM (DR) 1957 including Sections 420, 120B IPC and Sec.3(a) and 4(a) of Explosive Substances Act 1908. The loss to the Government as per the said charge sheet is Rs.38.13 crores for illegal quarrying. Loss by way of renovation cost is Rs.8.816 lakhs (6.096+2.720) found added in the charge sheet.

It is also seen from the copy of the above charge sheet that one S.R.Kumar proprietor of M/s Galaxy enterprises and D.Rajapandian (Power of Attorney) have connived with each other and submitted forged and fabricated documents before the District Collector to get the contract for quarrying.

It is to submit that, the various sections found involved in the FIR and the charge sheet namely Sec.420, 120(B) of IPC and the section covered under para 1 of part A of the section offence to the Prevention of Money Laundering Act 2002.

Thus it can be seen from para 4 & 5 above, the various acts of commission and omission of Galaxy Enterprises and various other proceeds of crime involved in the money laundering.

On the basis of the information and documents, a prima facie case for an offence of money laundering under Section 3 of the Prevention of Money Laundering Act 2002 punishable under Section 4 of the said Act appears to have been made out."

3. Mr.B.Kumar, learned Senior Counsel representing Ms.M.Sneha, learned counsel on record for the petitioner submitted that the penal provisions of the Mines and Minerals (Development and Regulation) Act, 1957, (for brevity "the MM Act") is not a schedule offence under the Prevention of Money Laundering Act, 2002 and therefore, the investigation by the Enforcement Directorate is illegal.

4. We are unable to accept the above submission for the simple reason that the registration of the FIR in Crime No.193 of 2013 and the consequent E.C.I.R.01/2018, includes, apart from the MM Act, Section 420 IPC as well, which is a schedule offence.



5. The facts of the case do not pass muster the law laid down by the Supreme Court in State of Haryana vs. Bhajan Lal & Others¹, for quashment of an investigation, which is at its infancy. It is always open to the petitioner to challenge the prosecution, if the same is illegal.

In fine, this criminal original petition is dismissed. Connected Crl.M.P. is closed.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

Nsd

To

- 1.The Joint Director,
Government of India,
2nd and 3rd Floors, "C" Block,
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- 2.The Assistant Director,
Directorate of Enforcement,
Government of India,
Madurai Sub-Zonal Office,
Old No.42, New No.6, Besant Road,
Chokkikulam, Madurai - 624 002.
- 3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Sneha, Advocate, S.R.No. 4359

Crl.O.P. (MD) .No.11895 of 2019

RSV(CO)
GN(17/03/2021)