



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.11.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.16438 of 2017

and

Crl.M.P.(MD) No.10903 of 2017

Senthil

... Petitioner/Sole Accused

Vs.

1) State rep. by
The Inspector of Police,
Thondi Police Station,
Ramanathapuram.
(Crime No.213 of 2017)

... Respondent/Complainant

2) Mohamed Nazeer,
The Inspector of Police,
Thondi Police Station,
Ramanathapuram,
Tirunelveli District.

... Respondent/ De facto
Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to the First Information Report in Crime No.213 of 2017 dated 08.10.2017 on the file of the respondent no.1 and quash the same as illegal.

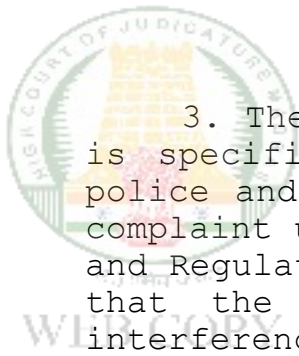
For Petitioners : Mr.T.Lajapathi Roy

For R-1 : Mr.M.Chandrasekaran,
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking to quash the First Information Report in Crime No.213 of 2017, dated 08.10.2017, pending on the file of the first respondent.

2. Based on the complaint given by the second respondent, who is the Inspector of Police, an F.I.R. has been registered for an offence under Section 21(4) of the Mines and Minerals (Development and Regulations) Act, 1957.



3. The learned counsel for the petitioners submitted that there is specific bar under the Act to prosecute the case through the police and the Act itself contemplates for the filing of a private complaint under Section 21(4) of the Mines and Minerals (Development and Regulations) Act, 1957. Therefore, the learned counsel submitted that the F.I.R. registered by the respondent police requires interference of this Court.

4. Heard the learned Additional Public Prosecutor appearing for the respondent police.

5. The only issue that requires consideration in this case is as to whether the respondent police can proceed further with the investigation based on the F.I.R. registered for an offence under Section 21(4) Mines and Minerals (Development and Regulations) Act, 1957 based on the complaint given by the second respondent. For this purpose, it will be relevant to extract Section 22 of the Mines and Minerals (Development and Regulations) Act, 1957.

"22. Cognizance of offences.-No court shall take cognizance of any offence punishable under this Act or any rules made thereunder except upon complaint in writing made by a person authorised in this behalf by the Central Government or the State Government."

6. It is clear from the above provision that no Court can take cognizance of an offence punishable under this Act except upon the complaint given in writing by an authorized person. The term 'complaint' has been defined under Section 2(d) of the Code of Criminal Procedure and the same is extracted as under:-

(d) "*complaint*" means any allegation made orally or in writing to a Magistrate, with a view to his taking action under this Code, that some person, whether known or unknown, has committed an offence, but does not include a police report.

7. In the present case, the respondent police have registered an F.I.R. and the same will result only in a final report. This final report cannot be taken cognizance by the concerned Court since the Act itself stipulates that the Court can take cognizance of any offence punishable under this Act only on a complaint. Therefore, no useful purpose would be served in keeping the F.I.R. pending in this case.

8. In the result, the F.I.R. registered by the first respondent in Crime No.213 of 2017 dated 08.10.2017 is hereby quashed and accordingly, this Criminal Original Petition is allowed. It is left open to the respondent police / concerned authority to proceed further with the case in accordance with the procedure contemplated under the Mines and Minerals (Development and Regulations) Act, 1957.



Act, 1957. Consequently, connected Crl.M.P.(MD) No.10903 of 2017 is closed.

Sd/-

Assistant Registrar

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/ /2020

Sub Assistant Registrar(CS)

Sts

To

1. The Inspector of Police,
Thondi Police Station,
Ramanathapuram.
(Crime No.213 of 2017)
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.T.LAJAPATHI ROY, Advocate (SR-103063[F] dated 02/12/2019)

Order made in
Crl.O.P. (MD) No.16438 of 2017

Dated:29.11.2019

MK (09.01.2020) 3P 4C