



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.11.2019

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CORAM:

THE HONOURABLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.O.P.(MD)No.17916 of 2019
and
Crl.M.P.(MD)No.10522 of 2019

Arumugam

... Petitioner Accused No.1

Vs.

1.State represented by the
Inspector of Police,
Manamadurai Police Station,
Sivagangai District.
(In Crime No.425 of 2019)

... Respondent 1 / Complainant

2.Muniyasamy

...Respondent 2 / Defacto Complainant

PRAYER:Criminal Original Petition is filed under Section 482 of Cr.P.C., to Call for the entire relevant records connected to the First Information Report in Crime No.425 of 2019 dated 09.11.2019 pending on the file of the first respondent police Station and quash the same as illegal as against the petitioner.

For Petitioners : Mr.D.Ajayepriyan

For R1 : Mr.K.Suyambulinga Bharathi
Government Advocate (Crl.side)

O R D E R

This petition has been filed to quash the F.I.R. in Crime No.425 of 2019 pending on the file of the first respondent police as against the petitioner.

2.When the matter was taken up for hearing, the learned Government Advocate (Crl.side) on instructions would submit that on the complaint lodged by the second respondent, who is being the



Village Administrative Officer, the first respondent police registered a case for the offences under Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957, in Crime No.425 of 2019 as against the petitioner. As per the G.O.(Ms.)No.12, Industries (MMC1), 2nd February 2009, the District Forest Officers and the Police Personnel not below the rank of Inspector of Police, to make complaint in writing to the Court of competent jurisdiction for any offence punishable under Section 21(1) of the Mines and Minerals (Development & Regulation) Act, or any Rules made thereunder, in respect of cases failing within their jurisdiction. However, the present complaint has lodged by the Village Administrative Officer, namely, the second respondent herein and the first respondent straight away registered the case in Crime No.425 of 2019 as against the petitioner. The relevant portion of the G.O. reads hereunder:

"Delegation of Powers to certain officers of certain Departments under Mines and Minerals (Development and Regulation) Act.

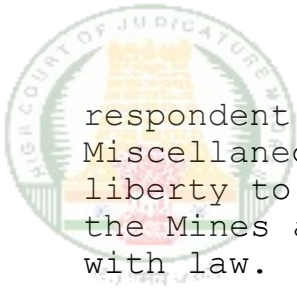
[G.O.(Ms.)No.12, Industries MMC1), 2nd February 2009, Thai 20, Thiruvalluvar Aandu - 2040]

No.II(2)/IND/170/2009- Under Section 22 of the Mines and Minerals (Development and Regulation) Act, 1957 (Central Act 67 of 1957) and in supersession of Industries Department Notification No.319, published at page 1 in Part II - Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated June 22, 1994 the Governor of Tamil Nadu hereby authorises the District Forest Officers and the Police Personnel not below the rank of Inspector of Police, to make complaint in writing to the Court of competent jurisdiction for any offence punishable under the said Act or any Rules made thereunder, in respect of cases failing within their jurisdiction.

*M.F.FAROOQUI,
Principal Secretary to Government."*

3.Admittedly, though the Village Administrative Officer lodged the complaint, he is not an authorised person by the State Government to proceed as against the accused person for the offences alleged in the F.I.R. Under these circumstances, the First Information Report cannot be sustained as against the petitioner and it is clear abuse of process of law.

4.In view of the above discussion, this Court is inclined to quash the F.I.R, in Crime No.425 of 2019 on the file of the first respondent police. Hence, this Criminal Original Petition is allowed and the F.I.R in Crime No.425 of 2019 on the file of the first



respondent police, is hereby quashed. Consequently, connected Miscellaneous Petition is closed. However, the 1st respondent is at liberty to proceed as against the petitioner under Section 22 of the the Mines and Minerals (Development & Regulation) Act, in accordance with law.

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Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

To

1.The Inspector of Police,
Manamadurai Police Station,
Sivagangai District.

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

+1 CC to M/s.AJIAY PRIYAN, Advocate (SR-102627[F] 29/11/2019)

Cr1.O.P. (MD) No.17916 of 2019
29.10.2019

Ls

SDS (19.12.2019) 3P 4C