

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.11.2020

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.O.P.No.17762 of 2019
and
Crl.M.P.No.8961 of 2019

M.Andavan,
S/o.Masilamani

...
versus

Petitioner/A1

1.Inspector of Police,
Magaral Police Station,
Magaral, Kanchipuram District.

2.T.R.Manogaran,
Zonal Deputy Tahsildar,
Walajabad,
Kanchipuram District.

... Respondents/Complainant and
de-facto complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, seeking to call for the records relating to the case in Crime No.56 of 2019 pending investigation on the file of the first respondent and quash the same.

For Petitioner : Mr.K.G.Senthil Kumar

For Respondent No.1 : Mr.S.Karthikeyan
Additional Public Prosecutor

For Respondent No.2 : No Appearance

O R D E R

This Criminal Original Petition has been filed praying to quash the FIR registered in Crime No.56 of 2019 on the file of the first respondent police, as illegal.

2. Heard Mr.K.G.Senthil Kumar, learned counsel appearing for the petitioner and Mr.S.Karthikeyan, learned Additional Public Prosecutor appearing for the respondent police.

3. The learned counsel appearing for the petitioner would contend that the first respondent police herein registered

the FIR in Crime No.56 of 2019 against the petitioner for an offence punishable under Section 379 of IPC, in which, he made allegation against the petitioner as he transported the Chakai without any authorisation. In this regard, he would further submit that on the date of transportation of Chakai, the petitioner was having valid permit and also the transported material was weighed in a weighing machine. Even after knowing the same, the respondent police has refused to close the FIR and therefore, registering the case against the petitioner for an offence punishable under Section 379 of IPC is an abuse of process of law.

4. Per contra, the learned Additional Public Prosecutor appearing for the first respondent police on instructions would submit that due to the reason that the stay is in force, the first respondent police herein is not in a position to proceed the investigation. However, he would further submit that he undertakes to consider the documents now relied on by the petitioner.

5. Now, on considering the rival submissions made by the learned counsel appearing on either side, though on the date of occurrence, the petitioner was having the valid permit for transporting the Chakai, the genuinity of the said permit has to be verified by the Investigating Officer only during the time of investigation. In otherwise, the ground raised by the petitioner is not at all sufficient to hold that the registration of the FIR itself is an abuse of process of law. Further, without marking the documents now relied on by the petitioner as exhibits, this Court is not in a position to consider the same as genuine one.

6. Therefore, in the said circumstances, it would appropriate to pass the following directions to the first respondent police;

(i) The first respondent police is directed to complete the investigation, within a period of three months from the date of receipt of a copy of this order, after considering the documents now relied on by the petitioner, for example, copy of the permit, the receipt in respect of the weighing Chakai.

7. This Criminal Original Petition is ordered accordingly. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (CS)

//True Copy//

Sub Assistant Registrar

To

1.The Inspector of Police,
Magaral Police Station,
Magaral, Kanchipuram District.

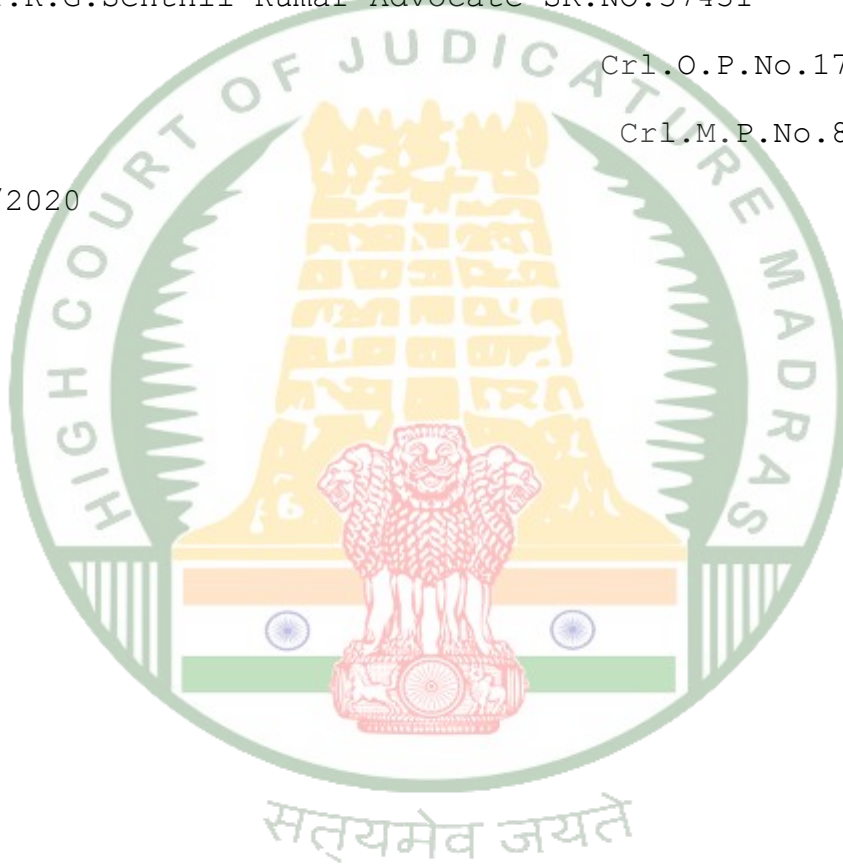
2 The Zonal Deputy Tashildar,
Walajabad, kancipuram District.

3.The Public Prosecutor,
High Court, Madras.

+1CC to Mr.K.G.Senthil Kumar Advocate SR.NO.37431

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SDR 14/12/2020



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