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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.03.2020

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

CRL.O.P.No.30367 of 2019
and Crl.MP.No.16434 of 2019

1.Kandasamy
2.Selvam

... Petitioners/A1 & 2

Vs.

State by
The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District.
Crime No.828 of 2019.

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records in Crime No.828 of 2019 on the file of the Inspector of Police, Thiruvannamalai Town Police Station, Thiruvannamalai District.

For Petitioners: Mr.S.Silambuselvan

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor.

O R D E R

This petition has been filed to quash the F.I.R. in Crime No. 828 of 2019 registered by the respondent police for offences under Sections 379, 430 of IPC r/w 21(5) of Mines and Minerals of Development and Regulation Act, 1957, as against the petitioners.

2. The learned Counsel appearing for the petitioners would submit that the petitioners is an innocent person and he has not committed any offence as alleged by the prosecution. Without any base, the respondent police registered a case in Crime No.828 of 2019 for the offences under Sections 379, 430 of IPC r/w 21(5) of Mines and Minerals of Development and Regulation Act, 1957, as against the petitioner. Hence he prayed to quash the same.



4. Heard Mr.S.Silambuselvan, learned counsel appearing for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent.

6. It is relevant to rely upon the judgment of the Hon'ble Supreme Court of India passed in Crl.A.No.255 of 2019 dated 12.02.2019 in the case of Sau. Kamal Shivaji Pokarnekar vs. the State of Maharashtra & ors., as follows:-

5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same. It is not necessary



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that a meticulous analysis of the case should be done before the Trial to find out whether the case would end in conviction or acquittal. If it appears on a reading of the complaint and consideration of the allegations therein, in the light of the statement made on oath that the ingredients of the offence are disclosed, there would be no justification for the High Court to interfere.

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9. Having heard the learned Senior Counsel and examined the material on record, we are of the considered view that the High Court ought not to have set aside the order passed by the Trial Court issuing summons to the Respondents. A perusal of the complaint discloses that prima facie, offences that are alleged against the Respondents. The correctness or otherwise of the said allegations has to be decided only in the Trial. At the initial stage of issuance of process it is not open to the Courts to stifle the proceedings by entering into the merits of the contentions made on behalf of the accused. Criminal complaints cannot be quashed only on the ground that the allegations made therein appear to be of a civil nature. If the ingredients of the offence alleged against the accused are prima facie made out in the complaint, the criminal proceeding shall not be interdicted."

7. The learned counsel for the petitioners submitted that the Assistant Director, Mines and Minerals, Coimbatore issued proper bills and vouchers to transport the sand, which was not considered by the Investigation Officer. Therefore, the petitioners are directed to submit the above bills and vouchers to the Investigation Officer, and on the receipt of the same, the respondent is directed to consider the same and complete the investigation in Crime No.828 of 2019 and file final report within a period of 12 weeks from the date of receipt of a copy of this order, before the jurisdiction Magistrate, if not already filed.



8. With the above directions, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1.The Inspector of Police,
Thiruvannamalai Town Police Station,
Thiruvannamalai District.
Crime No.828 of 2019.

2. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.S.Silambuselvan, Advocate Sr.21772

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srg 14/07/2020