



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **03.11.2020**

CORAM:

THE HONOURABLE MRS.JUSTICE **J.NISHA BANU**

Crl.O.P. (MD)No.5194 of 2020

and

Crl.M.P. (MD)No.2999 of 2020

Sambath @ Sambathkumar

... Petitioner

Vs.

1.The State represented through
The Inspector of Police
Ammamet Police Station,
Thanjavur District.
(Crime No.68 of 2020)

2.The Special Sub Inspector of Police (2826)
Ammamet Police Station,
Thanjavur District.

...Respondents

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the impugned FIR in Crime No.68 of 2020 on the file of the first respondent police and quash the same as illegal as against the petitioner alone.

For Petitioner	: Mr.T.Indrachithu
For Respondents	: Ms.S.E.Veronica Vincent
	Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed praying to quash the FIR in Crime No.68 of 2020, on the file of the first respondent police, as illegal as against the petitioner alone.

2.The case of the prosecution is that on 10.02.2020 when the respondent police were on routine check-up, they spotted a Van bearing Registration No.TN 92 C 1281 TATA Manda in a suspicious manner and intercepted it. On 10.02.2020, the second respondent has registered a case against the petitioner in Crime No.68 of 2020 for the offence punishable under Section 379 of I.P.C., read with Section 21(4) of Mines and Minerals Act, alleging that the petitioner was arrayed as A2 as owner of the vehicle and has transported 1/2 Unit of river sand illegally in his vehicle.

3.The learned counsel for the petitioners would state that the petitioner is not the owner of the vehicle and the RC Book of the vehicle reveals the truth and therefore, he prays to quash the

above FIR.



4.The learned Government Advocate appearing for the respondents, on instructions, would submit that there are eight previous cases against the petitioner and the materials were recovered on the spot and hence, prayed for dismissal.

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5.The Hon'ble Supreme Court by judgment dated 02.12.2019 in **Crl.A.No.1817 of 2019 in the case of M.Jayanthi vs. K.R.Meenakshi and another** has held as follows:-

'9.It is too late in the day to seek reference to any authority for the proposition that while invoking the power under Section 482 Cr.P.C for quashing a complaint or a charge, the Court should not embark upon an enquiry into the validity of the evidence available. All that the Court should see is as to whether there are allegations in the complaint which form the basis for the ingredients that constitute certain offences complained of. The Court may also be entitled to see (i) whether the preconditions requisite for taking cognizance have been complied with or not; and (ii) whether the allegations contained in the complaint, even if accepted in entirety, would not constitute the offence alleged.'

6.Here in the present case, the complainant had made specific allegations in the complaint against the petitioner and therefore, the grounds raised in this petition can be gone into only in a full-fledged trial. Considering the facts and circumstance of the case, the first respondent is directed to complete the investigation and file a final report in Crime No.68 of 2020 within a period of two months from the date of receipt of a copy of this order.

7. With the aforesaid direction, the Criminal Original Petition is dismissed.Consequently, connected miscellaneous petition is closed.

Sd/-

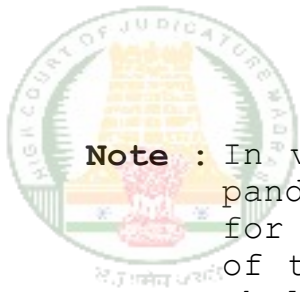
Assistant Registrar (P&A)

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Sub Assistant Registrar(CS)

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Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the Advocate / litigant concerned.

To

- 1.The State represented through
The Inspector of Police
Ammamet Police Station,
Thanjavur District.
(Crime No.68 of 2020)
- 2.The Special Sub Inspector of Police (2826)
Ammamet Police Station,
Thanjavur District.

Crl.O.P.[MD]No.5194 of 2020
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SSS(CO)
AP(18/11/2020) 3P 3C