



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.12.2020

CORAM :

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THE HONOURABLE MRS.JUSTICE J.NISHA BANU

CRL.O.P.(MD)No.14088 of 2020

and

CRL(MD)No.6484 of 2020

Balakrishnan

... Petitioner

vs.

The State
Through the Sub Inspector of Police,
Jambunathapuram Police Station,
Trichy.
Crime No.447/2020

... Respondent

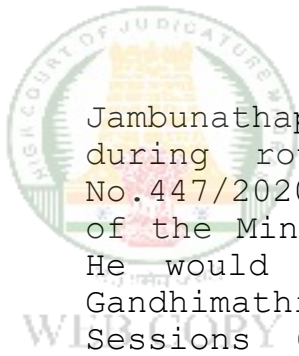
PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the FIR.447 of 2020, U/s-379 of IPC r/w 21(1) of Mines and Minerals (Developments and Regulations) Act, 1957 dated 09.06.2020 against the petitioner/accused, and quash the same as devoid of merits against the petitioner.

For Petitioner	: Mr.A.Haja Mohideen
For Respondent	: Mr.V.Neelakandan Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed to call for the records of the FIR.447 of 2020, U/s-379 of IPC r/w 21(1) of Mines and Minerals (Developments and Regulations) Act, 1957 dated 09.06.2020 against the petitioner/accused, and quash the same as devoid of merits against the petitioner.

2.The learned counsel for the petitioners would state that the petitioner is the driver of the Tipper Lorry bearing registration No.TN-14-E-6769 and he transported the subject goods of stone from Kondampatty to Nagalapuram by loading the goods on 08.06.2020 at 10.00 a.m and the vehicle has permit to transport the stone of 6 cubic meter in No.25053 which was signed by the licensee of the quarry and duly endorsed by the Assistant Director of Mines and Minerals, Namakkal. While so, alleging that on 09.06.2020 about 09.15 a.m., during inspection by the Police it was found that the petitioner transported stone weight of 18 ton without permit for personal gain in the aforesaid Tipper Lorry, a complaint was lodged against the petitioner by the Sub Inspector of Police,



Jambunathapuram Police Station, and the Tipper Lorry was seized during routine check-up and an FIR was registered in Crime No.447/2020 for the offences under Sections 379 IPC read with 21(1) of the Mines and Minerals (Developments and Regulations) Act, 1957. He would further state that the owner of the vehicle namely, Gandhimathi filed a petition for release of vehicle before the Sessions Court, Trichirappalli, and the same was allowed on 09.07.2020 in Crl.M.P.No.2288/2020 with conditions. According to the petitioner, the vehicle has a valid permit and he has not involved in any illegal transportation of mineral and the ingredients of Section 379 IPC and 21(1) of the Mines and Minerals (Developments and Regulations) Act, 1957, are not complied with. Thus, he would pray for quashing of the FIR.

3.The learned Additional Public Prosecutor would state that there are totally two accused and the petitioner is the 1st accused and he caught red-handed by the Police on the allegation that he transported 18 ton weight of stone without permit for personal gain and since there is specific overtact attributed against the petitioner in the FIR, he would pray for dismissal of this petition.

4.Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecuttor.

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 filed against the petitioner and therefore, I am not inclined to interfere with the impugned FIR and it is too early to interfere with the investigation. Ends of justice would be met if the respondent/Police is directed to file the charge sheet within a time frame. Accordingly, this Criminal Original Petition is dismissed with a direction to the respondent/Police to file the charge sheet before the concerned Judicial Magistrate Court within a period of two months from the



date of receipt of a copy of this order. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar ()

// True Copy //

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/ /2020

Sub Assistant Registrar(CS)

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 Sub Inspector of Police,
Jambunathapuram Police Station,
Trichy.

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

CrI.O.P. (MD)No.14088 of 2020
04.12.2020

MJ(CO)

KB(28.12.2020) 3P 3C