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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 27.02.2020

PRONOUNCED ON : 22.05.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)Nos.17834, 23248, 23561 and
23571 of 2014 & Crl.O.P. (MD)Nos. 1445, 1446,
1972, 3953, 4120 & 15114 of 2015 &
M.P. (MD)Nos.1,1,1 &1 of 2014 & 1,1,1,1,1& 1of 2015
2,2&2 of 2014 & 2,2,2,2&2 of 2015 &
Crl.M.P. (MD)Nos.9066, 9067,9069 to 9379 of 2019

1. Gem Granites No.78, Cathedral Salai, Chennai.
2. R. Veeramani S/o. Rengasamy, Partner, Gem Granites, Old No.305, New No.164, Lloyds Road, Chennai.
3. S.R. Asaithambi S/o. Rengasamy, Partner, Gem Granites, New No.28, Venkataraman Street, T. Nagar, Chennai
4. R. Sekar S/o. Rengasamy, Partner, Gem Granites, NO.120 Conningham Road, Bengaluru 560 052
5. S.R. Kumar S/o. Rengasamy, Partner, Gem Granites, 4-B Jaipur Terrace, No.354, Avvai Shanmugam salai, Gopalapuram, Chennai 86.

... Petitioners / Accused No.1 to 5 in
CRL OP(MD). 17834 of 2014

P. Rajasekaran S/o. Pitchaiambalam, 10/1,
Deputy Collector Colony 1st Street, K.K.Nagar, Madurai.

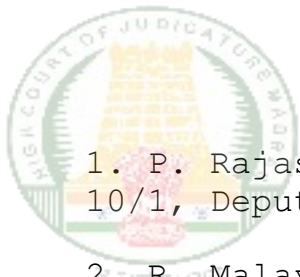
... Petitioner / Accused in
CRL OP(MD). 23248 of 2014

P.K. Selvaraj S/o.P.M. Kuppusamy, 635,
5th East Street, K.K.Nagar, Madurai-20

... Petitioner /Sole Accused in
CRL OP(MD). 23561 of 2014

P.K. Selvaraj S/o. P.M. Kuppusamy, 635,
5th East Street, K.K.Nagr, Madurai

... Petitioner / Accused in
CRL OP(MD). 23571 of 2014



1. P. Rajasekar S/o. Pitchaiamabalam,
10/1, Deputy Collector Colony, 1st St., K.K.Nagar, Madurai

2. R. Malayarasi W/o. P. Rajasekar,
10/1, Deputy Collector Colony, 1st St., K.K.Nagar, Madurai

... Petitioners / Accused in
CRL OP(MD). 1445 of 2015

P.K. Selvaraj S/o. P.M. Kuppusamy, 635,
5th East Street, K.K.Nagar, Madurai.

... Petitioner /Sole Accused in
CRL OP(MD). 1446 of 2015

1. Gem Granites No.78 Cathedral Road, Chennai

2. R.Veeramani S/o.Rengasamy, Partner, Gem Granites, Old No.305
New No.164 Lloyds Road, Chennai

3. S.R.Asaithambi S/o.Rengasamy, Partner, Gem Granites, New No.28,
Venkatraman Street, T.Nagar, Chennai

4. R.Sekar S/o.Rengasamy, Partner, Gem Granites, No.120,
Gunningham Road, Bengaluru

5. S.R.Kumar S/o.Rengasamy, Partner, Gem Granites, 4-B, Jaipur
Terrace, No.354 Avvai Shanmugam Salai, Gopalapuram, Chennai

... Petitioners / Accused 1 to 5 in
CRL OP(MD). 1972 of 2015

1. Gem Granites No.78 Cathedral Road, Chennai-86

2. R.Veeramani S/o.Rengasamy, Partner, Gem Granites, Old No.305,
New No.164 Lloyds Road, Chennai-14

3. S.R.Asaithambi S/o.Rengasamy, Partner Gem Granites, New No.28,
Venkatraman Street, T.Nagar, Chennai-17

4. R.Sekar S/o.Rengasamy, Partner, Gem Granites, No.120 Cunningham
Road, Bengaluru,

5. S.R.Kumar S/o.Rengasamy, Partner, Gem Granites, 4-B, Jaipur
Terrace No.354 Avvai Shanmugam Salai, Gopalapuram, Chennai

... Petitioners / Accused 1 to 5 in
CRL OP(MD). 3953 of 2015



1. M.Muthamilselvan S/o.Mookaiah @ Periyapalayam, Vaachampatti,
Keelavalavu Village, Melur Taluk, Madurai Dist

2. P.Murugesan S/o.Periagounder, Having Office at 7th Street, 83-A
(1st Floor) Ammanagar Kattoor, Trichy Dist

3. G.Ravichandran S/o.Kuppusamy, -Do-

... Petitioners / Accused in
CRL OP(MD). 4120 of 2015

Kasaniya W/o.Rafeek Raja, 1a, Bharathiar Puram, Chokkam Patti,
Melur, Madurai District.

... Petitioner / Accused in
CRL OP(MD). 15114 of 2015

Vs.

The District Collector,
Madurai District,
Madurai.

... Respondent in all Petitions

Prayer in CRL OP(MD). 17834/ 2014 :

Criminal Original Petition filed Under Section 482 of Cr.P.C.
to call for the records relating to the impugned proceedings in
C.C.No.46/2014 on the file of the Judicial Magistrate, Melur, quash
the same.

Prayer in CRL OP(MD). 23248/ 2014 :

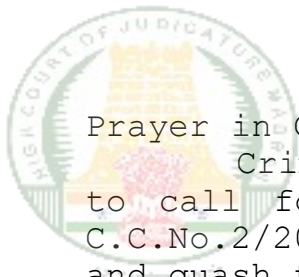
Criminal Original Petition filed Under Section 482 of Cr.P.C.
to call for the records pertaining to the impugned proceedings in
C.C.No.105/2014 on the file of the Learned Judicial Magistrate,
Melur and quash the same.

Prayer in CRL OP(MD). 23561/ 2014 :

Criminal Original Petition filed Under Section 482 of Cr.P.C.
to call for the records pertaining to the impugned proceedings in
C.C.No.95/2014 on the file of the learned Judicial Magistrate, Melur
and quash the same

Prayer in CRL OP(MD). 23571/ 2014 :

Criminal Original Petition filed Under Section 482 of Cr.P.C.
to call for the records pertaining to the impugned proceedings in
C.C.No.92/2014 on the file of the Learned Judicial Magistrate, Melur
and quash the same.



Prayer in CRL OP(MD). 1445/ 2015 :

Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records pertaining to the impugned proceedings in C.C.No.2/2015 on the file of the Learned Judicial Magistrate, Melur and quash the same.

Prayer in CRL OP(MD). 1446/ 2015 :

Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records pertaining to the impugned proceedings in C.C.No.5/2015 on the file of the Learned Judicial Magistrate, Melur and quash the same.

Prayer in CRL OP(MD). 1972/ 2015 :

Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records relating to the impugned proceedings in CC.No.60/2014 on the file of the Judicial Magistrate, Melur quash the same.

Prayer in CRL OP(MD). 3953/ 2015 :

Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records relating to the impugned proceedings in CC.No.3/2015 on the file of the Judicial Magistrate, Melur quash the same.

Prayer in CRL OP(MD). 4120/ 2015 :

Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records pertaining to the impugned proceedings in CC.No.139/2014 on the file of the learned Judicial Magistrate , Melur and quash the same.

Prayer in CRL OP(MD). 15114/ 2015 :

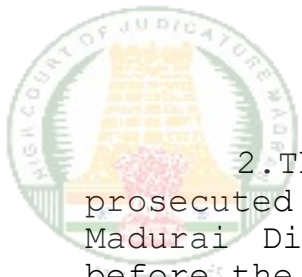
Criminal Original Petition filed Under Section 482 of Cr.P.C. to call for the records relating to the impugned proceedings in C.C.No.157 of 2014 on the file of the learned Judicial Magistrate, Melur and quash the same.

For Petitioners : Mr.Veerakathiravan,
(in all CRL OPs) Senior Counsel,
for Mr.C.Jegannathan.

For Respondent : Mr.A.Natarajan,
(in all CRL OPs) State Public Prosecutor,
Assisted by,
Mr.A.Robinson,
Government Advocate(Crl. Side).

COMMON ORDER

Heard the learned Senior Counsel appearing for the petitioners and the learned State Public Prosecutor assisted by the learned Government Advocate (crl.side) for the State.



2.The petitioners in these original petitions are being prosecuted by the respondent herein, namely, the District Collector, Madurai District, Madurai in a batch of private complaints filed before the Judicial Magistrate, Melur under Section 200 of Cr.PC r/w Section 4(1A) & 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957. To quash the said private complaints, these criminal original petitions have been filed.

3.The case of the prosecution/complainant is that the petitioners herein have conducted their quarry operations in violation of the mandatory provisions set out in the Mines and Minerals (Development and Regulation) Act, 1957 and that by illegally storing the minerals in the lands not mentioned in the lease deed, the offences in question have been committed.

4.The learned Senior Counsel for the petitioners would contend that the private complaints are not maintainable. He would contend that a combined reading of the Mines Act, 1952 and the Mines and Minerals (Development and Regulation) Act, 1957 would indicate that the expression "mine" means any premises which is adjacent to and belonging to a mine and it includes the premises used for depositing the mined material. He would also point out that under Section 18 of the Mines and Minerals (Development and Regulation) Act, 1957, the Granite Conservation and Development Rules, 1999 have been issued. These rules would prevail over any rule that is repugnant to it. The Senior Counsel's core contention is that the complainant cannot fall back on the Rules issued by the State of Tamil Nadu if they are in conflict with the Granite Conservation and Development Rules, 1999. Rule 22 of the said Rule reads as under :

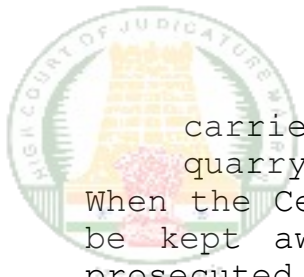
"22.Separate stacking of non-saleable granite.-

(1)The non-saleable granite rejects at quarry bottom should regularly be collected and transported to the surface and the quarry floor kept reasonably clear of debris.

(2) Small granite blocks from such non-saleable granite suitable for possible use in manufacture of bricks as well as flooring or wall tiles by small scale industries sector shall not be used as road metal or stone aggregate and such material shall be segregated from the dumps of granite rejects and stored separately for future use as far as possible, whenever such dumps are worked for recovery of stone aggregate or used as quarry backfill.

(3) The ground selected for dumping of top soil, overburden, waste material or non-saleable granite shall be away from working quarry.

(4) Before starting mining or quarrying operations, conceptual ultimate limits of the quarry shall be determined and dumping ground shall be so selected that dumping is not



carried out within the limits of the ultimate size of the quarry except where simultaneous back filling is proposed."

When the Central Rules mandate that the non saleable granites should be kept away from the working quarry, the petitioners cannot be prosecuted for having complied with the said statutory mandate. The petitioners' Senior Counsel seriously faulted the respondent for placing reliance on the Tamil nadu Prevention of Illegal Mining, Transportation and Storage of Minerals and Mineral Dealers Rules, 2011. In any event, proviso to Rule 3(3) states that a quarry operator or a leasehold quarry operator need not obtain a storing license and the rule is exempted for the lease holder of a mining lease.

5.The contentions urged by the learned Senior Counsel do not impress me. As rightly pointed out by the learned State Public Prosecutor, for conducting the quarrying operations, the quarry operator has to submit a mining plan and the same will have to be approved by the concerned authority. The learned State Public Prosecutor also drew my attention to the terms and conditions of the lease deed in which it has been clearly mentioned that the applicant should restrict his mining operation strictly within the permitted area as defined in the sketch and that the waste granite generated during quarrying operations should be dumped only in the area granted under lease. A mere look at the mining plan would indicate that the petitioners have to earmark an area where they intend to dump the waste minerals. The petitioners are unable to satisfy me that they had dumped the waste minerals only in the earmarked area. In any event, this is a matter for trial. In exercise of my jurisdiction under Section 482 of Cr.Pc, I cannot render a finding as to whether the minerals have been dumped in the earmarked site or outside the earmarked site. If the petitioners have dumped the waste minerals or kept the granite blocks outside the area set out in the mining plan, then it certainly constitutes a prima facie breach of the statutory provision. The petitioners cannot fall back on the Granite Conservation and Development Rules, 1999 if their activities have not conformed to the mining plan. I, therefore, do not find any merit in these criminal original petitions.

6.However, the personal appearance of the petitioners herein before the trial court stands dispensed with. Of course, the petitioners have to appear on those occasions when they are specifically directed by the learned trial judge. Of course, the learned trial judge will insist on the personal appearance of the parties only to answer the charge, for examination under Section 313 of Cr.Pc and at the time of pronouncement of judgment. On all other occasions, the petitioners can very well be represented by their counsel. If the counsel fails to appear on the other occasions, the benefit of dispensing with the personal appearance of the petitioners will stand automatically vacated.



7. Leaving open the petitioners' contentions and defences, these petitions stand dismissed. I make it clear that I have not gone into the merits of the matter. Consequently, connected miscellaneous petitions are also dismissed.

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Sd/-

Assistant Registrar(AD-II)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Skm

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 Judicial Magistrate, Melur.

2.The District Collector, Madurai District, Madurai.

+1CC TO MR.VEERA ASSOCIATES, Advocate Sr. No. 9091

Crl.O.P. (MD)Nos.17834, 23248, 23561 and
23571 of 2014 &
Crl.O.P. (MD)Nos. 1445, 1446,
1972, 3953, 4120 & 15114 of 2015 &
22.05.2020

SCR(CO)

TR(07.07.2020) 7P 4C