



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.05.2020

CORAM :

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl OP(MD)Nos.23075 of 2014

and

MP(MD)Nos.1 & 2 of 2014

WEB COPY

K.V.Balasubramanian

... Petitioner/Sole Accused

Vs.

The District Collector,

Madurai District,

Madurai - 625 020.

... Respondent

Prayer : Criminal Original Petition is filed under Section 482 of the Criminal Procedure Code, to call for the records pertaining to the impugned proceedings in C.C No.62 of 2014 on the file of the Judicial Magistrate, Melur, quash the same.

For Petitioner : Mr.Veera.Kathiravan, Senior Counsel
for Mr.C.Jeganathan

For Respondent : Mr.A.Natarajan, State Public Prosecutor,
assisted by Mr.A.Robinson,
Government Advocate (crl.side)

ORDER

Heard the learned Senior Counsel appearing for the petitioner and the learned State Public Prosecutor for the respondent.

2.The petitioner is shown as accused in C.C No.62 of 2014 on the file of the learned Judicial Magistrate, Melur. It is a private complaint filed by the respondent against the petitioner for having allegedly committed the offences under Sections 4(1A) r/w.21 (1) and 21(4A) of the Mines and Minerals (Development and Regulation) Act, 1957. The case of the prosecution is that the petitioner is the owner of the property in Survey No.119/1A in Patta No.509 in Edayapatti Village, Madurai District. As many as 1880 granite blocks were found deposited in the said survey numbers. Hence, the complaint in question came to be lodged. To quash the same, this criminal original petition has been filed.

3.The learned Senior Counsel appearing for the petitioner reiterated the contentions set out in the memorandum of grounds and wanted this Court to quash the impugned complaint. Per contra, the learned State Public Prosecutor submitted that the petitioner has not made out a case for quashing the complaint and that the inherent powers of this Court are not to be exercised in a case of



this nature. He wanted this Court to dismiss this criminal original petition.

4.I carefully considered the rival contentions and went through the materials on record. The order taking cognizance suffers from an apparent error. He is obviously residing outside the territorial limits of the judicial magistrate. Therefore, the procedure set out in Section 202 of Cr.Pc ought to have been followed. In this case, it was not followed. On this sole ground, as rightly pointed out by the learned Senior Counsel, the order taking cognizance will have to be quashed. But then, coming to the merits of the matter, it is seen that the petitioner is not carrying any mining activity in the survey number in question. According to the petitioner, he has no claim whatsoever on the granite blocks found on his lands. The impugned complaint has been filed for confiscation and forfeiture of the granite blocks as government property. The petitioner has no objection for forfeiture of the granite blocks. It appears that some third parties have laid claims on the said granite blocks. But, as far as the petitioner is concerned, he wants to totally disassociate himself.

5.The complaint in question is delightfully vague as regards the culpability of the petitioner. It is true that the petitioner owns the lands in question. It is also true that the granite blocks in question were found on his lands. But then, on that sole ground, the petitioner cannot be sought to be made liable. He cannot have any control if someone commits trespass and makes use of their lands. The petitioner can be asked to explain if he claims ownership or interest over the granite blocks that were found on his lands. The petitioner categorically makes a statement before this court that even if the granite blocks are removed and forfeited as government property, he will have no objection. Therefore, in the absence of any material to connect the granite blocks with the petitioner, the impugned complaint cannot be maintained against him. Continuance of the impugned prosecution is therefore quashed. Of course, quashing is only in respect of the prosecution against the petitioner. As regards the prayer for forfeiture of the said granite blocks as government property, it is for the court below to pass appropriate orders on merits and in accordance with law. In other words, the impugned proceedings are not quashed in toto.

6.This criminal original petition is allowed on these terms. Consequently, connected miscellaneous petitions are closed.

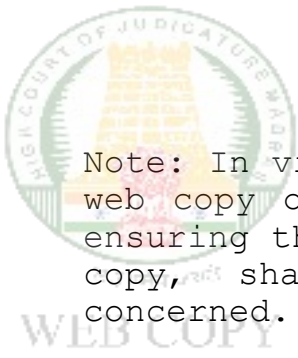
Sd/-

Assistant Registrar (Crl.Side)

// True Copy //

/ /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 Judicial Magistrate, Melur.
- 2.The Chief Judicial Magistrate, Madurai.
- 3.The District Collector, Madurai District, Madurai.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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AP(17/06/2020) 3P 5C