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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 OP(MD)No.12117 of 2015

and

MP(MD)No.1 of 2015

1.R.Jawahar

2.V.Venkateshwaran

... Petitioners

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 in C.C No.53 of 2015 on the file of the learned Judicial Magistrate, Melur, quash the same.

For Petitioners	:	Mr.C.Mahadevan for Ms.AL.Gandhimathi,
For Respondent	:	Mr.A.Natarajan, State Public Prosecutor, assisted by Mr.A.Robinson, Government Advocate (crl.side) for R1

ORDER

Heard the learned counsel appearing for the petitioners and the learned State Public Prosecutor for the respondent.

2.The petitioners are shown as accused in C.C No.53 of 2015 on the file of the learned Judicial Magistrate, Melur. It is a private complaint filed by the respondent against the petitioners for having allegedly committed the offences under Sections 4(1A), 4(A), 21(1), and 22 of Mines and Minerals (Development and Regulation) Act, 1957. The case of the prosecution is that the petitioners are the owners of the property in Survey Nos.60/1, 60/2, 60/3 and 60/7 in Edayapatti Village, Madurai East Taluk, Madurai District. The lands are covered under Patta No.310. According to the respondent, granite blocks were found stored in the petitioners' lands. The details are as under :



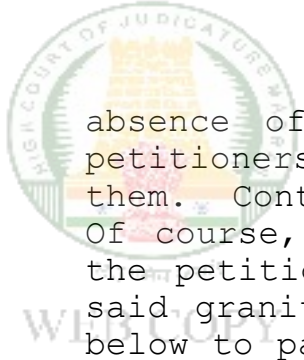
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Sl.No.	No. of granite blocks	Measurements in sq.m
60/1	37	417.807
60/2	79	856.264
60/3	107	1184.107
60/7	52	578.93

Hence, the complaint in question came to be lodged. The learned counsel appearing for the petitioners 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 petitioners have 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.

3.I carefully considered the rival contentions and went through the materials on record. The order taking cognizance suffers from an apparent error. The petitioners are based in Salem District. They are 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 Counsel, the order taking cognizance will have to be quashed. But then, coming to the merits of the matter, it is seen that the petitioners are not carrying any mining activity in the survey numbers in question. According to the petitioners' counsel, they have no claim whatsoever on the granite blocks found on their lands. The impugned complaint has been filed for confiscation and forfeiture of the granite blocks as government property. The petitioners have 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 petitioners are concerned, they want to totally disassociate themselves. In fact, at the instance of the petitioners, Crime No.115 of 2015 has been registered on the file of the Othakadai Police Station for taking action against the unknown accused for having committed trespass.

4.The complaint in question is delightfully vague as regards the culpability of the petitioners. It is true that the petitioners own the lands in question. It is also true that the granite blocks in question were found in their lands. But then, on that sole ground, the petitioners cannot be sought to be made liable. They are based in Salem District. They cannot have any control if someone commits trespass and makes use of their lands. The petitioners can be asked to explain if they claim ownership or interest over the granite blocks that were found on their lands. The petitioners categorically make a statement before this court that even if the granite blocks are removed and forfeited as government property, they will have no objection. Therefore, in the



absence of any material to connect the granite blocks with the petitioners, the impugned complaint cannot be maintained against them. Continuance of the impugned prosecution is therefore quashed. Of course, quashing is only in respect of the prosecution against the petitioners. 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.

5.This criminal original petition is allowed on these terms. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (AS)

// 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 District Collector, Madurai District, Madurai.

2.The Judicial Magistrate, Melur.

Cr1 OP(MD)No.12117 of 2015

and

MP(MD)No.1 of 2015

22.05.2020

VB (17.06.2020) 3P 3C