

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 05.02.2021

CORAM

THE HONOURABLE Mr. JUSTICE N. ANAND VENKATESH

Cr1.O.P.No.15068 of 2020

1. P.Jayapal
2. J.Yamuna

.. Petitioners

Vs.

State rep. by
The Deputy Superintendent of Police,
CSCID-Chennai,
Tiruppur Police Station,
Tiruppur District.
Crime No.129 of 2020

.. Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to call for the records in crime No.129 of 2020 on the file of the respondent Police and quash the same.

For Petitioners : Mr.K.Myilsamy

For Respondent : Mr.Mohamed Riyaz,
Additional Public Prosecutor

O R D E R

This petition has been filed seeking to quash the FIR in Crime No.129 of 2020 pending investigation on the file of the respondent Police.

2. The case of the prosecution is that based on the secret information received by the Police, an inspection was conducted in the Bio-Diesel Pump Station belonging to the petitioner on 10.09.2020 and it was found that the bunk was running without obtaining any permission from the concerned authorities. That apart, it is also alleged that the bunk is being run without providing any safety measures. The complainant in this case is the Deputy Superintendent of Police and based on his complaint, an FIR came to be registered in Crime No.129 of 2020.

3. Heard Mr.K.Myilsamy, learned counsel for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing for the respondent Police.

4. An FIR has been registered for the offences under Sections 2(e)(iv) of Motor Spirit & High Speed Diesel (Regulation of Supply & distribution & Prevention of Malpractices) Order, 2005, 7(1)(a)(ii) of Essential Commodities Act, 1955 and 285 of IPC. It is seen from records that the registration certificate has been issued by the Government of India in favour of the Bio-Diesel Pump Station that is run by the petitioners. It is also seen that the petitioners have also obtained permission from the local body to start the Bio-diesel Pump Station. According to the petitioners, as of now, there is no clarity with regard to obtaining license under the Motor Spirit & High Speed Diesel (Regulation of Supply & distribution & Prevention of Malpractices) Order, 2005 and there is no specific provision governing the same. Only on 29.06.2017, an amendment was brought into the said order which permitted direct sale of Bio-diesel to all consumers subject to obtaining permission from the Central Government. According to the petitioners, they had also submitted necessary application and paid fees for obtaining license and the same is pending. The petitioners also filed a writ petition in this regard in W.P.No.12578 of 2020 before this Court and the said writ petition was closed on the ground that the State Government is yet to form a board for granting license for running a Bio-diesel Bunk.

5. In the considered view of this Court, the respondent Police went over Board in registering an FIR against the petitioners even without conducting a preliminary enquiry and understanding the scope of the registration that governs the running of the Bio-diesel Bunk.

6. The scope of investigation is also not very clear in cases of this nature and the respondent should have conducted an enquiry before venturing into registering an FIR. It is not a case of the petitioners selling any spurious Bio-diesel in the bunk.

7. On the allegations made in the complaint, no offence has been made out against the petitioners and no useful purpose will be served in keeping the investigation pending.

8. In the result, the FIR in Crime No.129 of 2020, on the file of the respondent Police is hereby quashed and this criminal Original Petition is allowed.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Deputy Superintendent of Police,
CSCID-Chennai,
Tiruppur Police Station,
Tiruppur District.

2.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Myilsami, Advocate, S.R.No.6993.

SR-II(CO)
CSR: 10.03.2021

Crl.O.P.No.15068 of 2020



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