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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.15848 of 2021 and
Crl.M.P.No.8646 of 2021

1.Vijayakumar
2.Subramaniyan

...Petitioners

Vs.

1. The State rep by,
The Inspector of Police,
T.Palur Police Station,
Ariyalur-District.
Crime No.506/2021.

2. K.Ravichanthiran,
S/o Not Known,
Sub-Inspector of Police,
T.Palur Police Station,
Ariyalur-District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.506 of 2021 on the file of respondent Police at T.Palur Police Station, Ariyalur District and quash the same.

For Petitioners : Mr.Ilayaraja Kandasamy

For R1 : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioners, who are the accused/A1 & A2 in Crime No.506 of 2021, for offence under Sections 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC, have filed this Quash Petition.

2.The gist of the case is that the 2nd respondent, Sub Inspector of Police attached to the 1st respondent Police Station along with the Police personnels were on patrol duty on 12.08.2021, at about 09.00 a.m., keeping watch over smuggling of



liquor bottles and river sand, at that time, he received secret information that near river bed of Kollidam at Vazhaikurichi, two persons were packing river sand in cement bags. When the 1st respondent and the Police team reached the scene, on seeing them both of them escaped from the place leaving forest area. On examination, it was found that 1½ unit of river sand were packed in 150 cement bags. On enquiry, the persons involved in the crime are identified as Vijayakumar and Subramaniyan hail from Karaikurichi, Udayarpalayam Taluk, Ariyalur District/petitioners. Hence, an FIR in Crime No.506 of 2021, for offence under Sections 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and Section 379 IPC, was registered on 12.08.2021.

3.The learned counsel for the petitioners submitted that as per orders of the District Collector, Ariyalur in Na.Ka.No.A3/2385/2019, dated 19.06.2021 and the Commissioner of Rural Development and Panchayat, Ariyalur in No.26740/2021/NEDM-3, dated 07.06.2021, precautionary measures was taken by the concerned Department before onset of monsoon. The District Collector, Ariyalur and the Commissioner of Rural Development and Panchayat, Ariyalur had directed concerned officials to collect river sand in gunny bags and place the same to strengthen water reservoir, public tanks, irrigation lakes and river beds for avoiding flood damages and losses. On the above direction, the Block Development Officer, T.Pazhur sent a communication No.1326 of 2021 to the Deputy Superintendent of Police, Jayankondam on 11.08.2021 to submit a report for Karaikurichi Panchayat Sand Bag preparation as per Udayarpalayam Revenue Tahsildar Meeting Advisory. As per the instructions of the President of Karaikurichi Panchayat, the petitioners carried out the work of stocking river sand in cement bags. In support of his contention, the learned counsel for the petitioners produced the communication of the Assistant Director, Rural Development and Panchayat, Ariyalur to the Block Development Officer, Ariyalur, directing panchayat to take precautionary measure before onset of monsoon and also produced the letter of the Block Development Officer, T.Pazhur to the Deputy Superintendent of Police, Jayankondam. Thus, the petitioners were only carried out packing of river sand as per instructions of the revenue officials for the purpose of saving village from floods and nothing more. Hence, the learned counsel for the petitioners has prayed for quashing of FIR against the petitioners.

4.The learned Additional Public Prosecutor appearing for the 1st respondent Police submitted that the communication of the



revenue officials with regard to saving of village from floods, have been verified. The instructions of the Assistant Director, Rural Development and Panchayat, Ariyalur to the Block Development Officer, Ariyalur is that the river sand should be stocked only to the extent of 100 gunny bags and not more than that. In this case, the petitioners had packed 150 bags of river sand. Now, the investigation is underway and on conclusion of the same, the contention of the petitioners can be verified. At this stage, this petition cannot be entertained.

5.This Court considered the rival submissions and perused the materials available on record.

6.It is not in dispute that the instructions were given by the Assistant Director, Rural Development and Panchayat, Ariyalur to the Block Development Office, Ariyalur to take precautionary measures to safeguard the village before onset of monsoon. One of the direction is that 100 bags of river sand to be kept in stock. Here in this case, the only allegation seems to be packing of 150 bags of river sand at Kollidam river bid at Vazhakurichi. It is not the case of the 1st respondent that the river sand was taken by using lorry or other goods vehicle and it was not intercepted in any public way or any other place. The river sand have been packed nearby the river bid as per the instructions of the revenue officials. The packing of river sand depends upon the requirement and hence, 100 bags of river sand would not have been sufficient for doing precautionary measure.

7.Considering the submissions of both sides, it is seen that the petitioners were packed the river sand as per the instructions of the revenue officials which is not in dispute and the packing of 150 bags of river sand is due to the requirement. Hence, the continuation of the investigation against the petitioners in Crime No.506 of 2021, on the file of the 1st respondent Police, would amount to abuse of process of law and the same is liable to be quashed and, is quashed.

8.This Criminal Original Petition is, accordingly, allowed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar



To

1.The Inspector of Police,
T.Palur Police Station,
Ariyalur-District.

2.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.Ilayaraja Kandasamy, Advocate sr 57289.

Crl.O.P.No.15848 of 2021

PMK (CO)
SP (27/12/2021)