



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **03.03.2021**

CORAM :

THE HONOURABLE **Mrs.JUSTICE R. HEMALATHA**

Crl.O.P. (MD)No.3278 of 2021

and

Crl.M.P(MD) No.1804 of 2021

1.A.Devasagayam

2.Minor M.Manikumar

Represented by his Mother Guruvammal

3.P.Vijayaraj

...Petitioners

/Vs./

The Sub Inspector of Police,
Sernthamaram Police Station,
Sernthamaram Taluk,
Tenkasi District.
(Crime No.307 of 2020)

...Respondent

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.307 of 2020 on the file of the respondent police and quash the same.

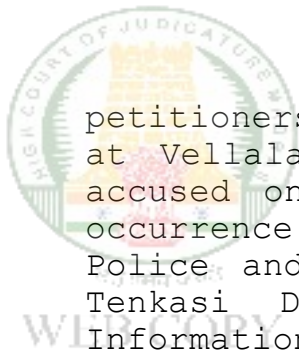
For Petitioners : Mr.F.X.Eugene
For Respondent : Mr.S.Chandrasekar
Additional Public Prosecutor

ORDER

The present petition is filed by the petitioners, seeking for a direction to quash the First Information Report in Crime No.307 of 2020 of Sernthamaram Police Station, Tenkasi District.

2.The main grievance of Mr.F.X.Eugene, learned counsel for the petitioners is that though the petitioners took sand only from their patta land, the respondent police foisted a false case against the present petitioners, as if the petitioners took sand from village tank bed.

3.Mr.S.Chandrasekar, learned Additional Public Prosecutor, on instructions, would contend that when the Sub-Inspector of Police along with other police attached to Sernthamaram Police Station, Tenkasi District, were on routine rounds, found the present



petitioners illegally mining ½ unit of sand from the pond situated at Vellalangulam Village and that the petitioners and the other accused on seeing the police party fled away from the scene of occurrence. His further contention is that the Sub-Inspector of Police and other police attached to Seranthamaram Police Station, Tenkasi District, arrested the accused and registered First Information Report in Crime No.307 of 2020 for the offence punishable under Section 379 of the Indian Penal Code, 1860 (sand theft). It is the submission of the learned Additional Public Prosecutor that the investigation in the instant case was already completed and filing of final report alone is yet to be filed.

4.It is settled law that the First Information Report and the consequent investigation cannot be quashed, unless there is no offence spelt out on the basis of the allegations alleged and there is no question of considering the merits of the allegations contained in the First Information Report at this stage or testing the veracity of the allegations. A perusal of the First Information Report shows that certain cognizable offences are made out as against the present petitioners and merely on the basis of the allegations of the petitioners that without any substantial proof, they took sand only from their patta land, entire proceedings in First Information Report in Crime No.307 of 2020 cannot be quashed. Therefore, I do not find any reason to quash the First Information Report in Crime No.307 of 2020.

5.With the above observation, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is dismissed.

Sd/-

Assistant Registrar (P&A)

// True Copy //

/ /2021

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.

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To

1.The Sub Inspector of Police,
Sernthamaram Police Station,
Sernthamaram Taluk,
Tenkasi District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.F.X.EUGENE, Advocate (SR-9271[F] dated 05/03/2021)

Crl.O.P. (MD)No.3278 of 2021

03.03.2021

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