



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 15.12.2021

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD) Nos.19140 & 9669 of 2021

and

Crl.M.P. (MD) Nos.4954 & 10651 of 2021

Crl.O.P. (MD) No.19140 of 2021:

1.R.Sathish
2.P.Prabu

... Petitioners/
Accused No. 1 & 2

Vs.

1.The Inspector of Police,
T.Ramanathapuram Police Station,
Madurai District.
(Crime No.41 of 2021)

... 1st Respondent/
Complainant

2.Muniyandi,
The Village Administrative Officer,
Thirumanikkam Village,
Madurai.

... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the impugned FIR in Crime No.41 of 2021 on the file of the respondent police and quash the same.

For Petitioners : Mr.S.Ramsundarvijayaraj
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R.1

Crl.O.P. (MD) No.9669 of 2021:

1.R.Sathish
2.P.Prabu

... Petitioners/
Accused No. 1 & 2

Vs.



1.The Inspector of Police,
T.Ramanathapuram Police Station,
Madurai District.
(Crime No.40 of 2021)

... 1st Respondent/
Complainant

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2.Muniyandi,
The Village Administrative Officer,
Thirumanikkam Village,
Madurai.

... 2nd Respondent/
Defacto Complainant

Prayer : Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to the impugned FIR in Crime No.40 of 2021 on the file of the respondent police and quash the same.

For Petitioners : Mr.S.Ramsundarvijayaraj
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor for R.1

COMMON ORDER

These Criminal Original Petitions have been filed for quashing the FIRs in Crime Nos. 40 of 2021 and 41 of 2021 registered on the file of T.Ramanathapuram Police Station, Madurai District. Crime No.40 of 2021 was registered for the offences under Sections 379 IPC and 21 (5) of Mines and Minerals (Development and Regulation) Act, 1957 and Crime No.41 of 2021 has been registered for the offence under Section 379 IPC.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor for the first respondent.

3. The case of the prosecution is that on 01.07.2021 at about 02.00 a.m, the defacto complainant saw the petitioners engaged in road works. The petitioners are said to have illegally removed sand and used the same for road works without getting prior permission from the Government. Therefore, the defacto complainant wanted the police to take action against the petitioners and the vehicles involved in the crime. The details of the vehicles had also been set out in Crime No.40 of 2021. The prosecution would further allege that after registering the case in Crime No.40 of 2021, the vehicles involved were kept under the custody of the defacto complainant in the property belonging to one Chinnan. The defacto complainant was keeping a regular watch on the vehicle. He later came to know that on 03.07.2021, the petitioners herein had taken away the said vehicles.



4. The petitioner's counsel would specifically contend that even in Crime No.40 of 2021, the defacto complainant had only stated that action should be taken against the petitioners and the vehicles concerned. It was never his case that he had seized the vehicles. In order to cover up the same, the second FIR has been falsely registered. I find considerable force in the said contention. There is nothing on record to show that the vehicle was originally seized and that subsequently they went missing. Therefore, Crime No.41 of 2021 has to be necessarily quashed as there is absolutely no basis for even registering the same. The FIR in Crime No.41 of 2021 is quashed, accordingly. Crl.O.P(MD) No.19140 of 2021 is allowed.

5. However, it is not possible for me to quash Crime No.40 of 2021 as contentious facts are involved. Crl.O.P.(MD)No.9669 is dismissed. The petitioner's defences are left open. Consequently, connected miscellaneous petitioners are closed.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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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 Inspector of Police,
T.Ramanathapuram Police Station,
Madurai District.

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

+1 CC to M/S.S.RAMSUNDARVIJAYRAJ, Advocate SR-39094 dated
16/12/2021

Crl.O.P.(MD)Nos.19140 & 9669 of 2021
and
Crl.M.P.(MD)Nos.4954 & 10651 of 2021
15.12.2021