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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM:

THE HON'BLE MR.JUSTICE N.SATHISH KUMAR

Crl.O.P.No.13540 of 2022

and

Crl.M.P.No.7260 of 2022

R.Kannan

...Petitioner

Vs.

Murugan
The Sub-Inspector of Police
Ramanatham Police Station
Cuddalore District

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.243 of 2018, pending on the file of the respondent and quash the same.

For Petitioner : Mr.C.Senapathi

For R1 : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

The Criminal Original Petition has been filed to call for the records in Crime No.243 of 2018, pending on the file of the respondent and quash the same for the alleged offence u/s.21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379, 430 I.P.C on the complaint dated 05.12.2018 lodged by the complainant, the respondent police herein.

2.Learned counsel for the petitioner submitted that the F.I.R. in Crime No.243 of 2018 was registered in the year 2018 and no action has been taken against the F.I.R., no investigation has been conducted from the year 2018 and the F.I.R. itself filed for the alleged offence of illegal transportation of the river sand.

3.Learned Government Advocate (Crl. Side) appearing for the



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respondent would contend that the F.I.R. is of the year 2018 which has been registered in Crime No.243 of 2018 for the alleged offence u/s.21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and Section 379, 430 I.P.C. In this case no investigation has not been conducted and it is left to the Court to decide the matter.

4.From the allegations found in the F.I.R. it is clear that it is bereft of details. Even the materials collected and taken into its face value, this Court is of the view it is not sufficient to constitute all the offence. Except the allegation, no materials are available in the F.I.R. to show that the accused in fact has involved in the illegal transportation of the river sand. The F.I.R. is also silent about the nature of sand, weight etc., involved in this case. The respondent police are not even taken care to investigate the matter further. Merely keeping the F.I.R pending, one cannot face criminal prosecution without any substance.

5.It is also seen that the F.I.R. is filed for the offence u/s.21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and the police are not the fit person to proceed u/s.21 (1) of MMDR Act, and the complaint can only be proceeded if it is filed by the authorized officer before the concerned Court. Accordingly, continuing the F.I.R. in Crime No.243 of 2018, for the offence u/s.21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 379, 430 of I.P.C is an abuse of process of law.

6.This Criminal Original Petition stands allowed accordingly. F.I.R. registered in Crime No.243 of 2018, for the offence u/s.21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and Section 379, 430 of I.P.C is hereby quashed. Consequently, the connected C.M.P.No.7260 of 2022 is closed.

Sd/-

Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Inspector of Police
Ramanatham Police Station
Cuddalore District



2. The Public Prosecutor
High Court of Madras,
Chennai.

+1cc to Mr.C.Senapathi, Advocate, S.R.No.36069

Crl.O.P.No.13540 of 2022
and
Crl.M.P.No.7260 of 2022

SSI (CO)
RGA (29/06/2022)