



WEB COPY



CrI.O.P.No.18011 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.09.2022

CORAM:

THE HON'BLE Ms.JUSTICE **R.N.MANJULA**

CrI.O.P.No.18011 of 2021
and CrI.M.P.No.8912 of 2021

Kathiravan

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
B-3, Kadambathur Police Station,
Kadambathur,
Thiruvallur District.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C., to call for the records pertaining to Crime No.236 of 2021 dated 12.06.2021 on the file of the respondent and quash the same as illegal, incompetent and abuse of process by allowing the present Criminal Original Petition.

For Petitioner : Mr. B.Tamilarasan

For Respondent-1 : Mr.A.Damodaran, APP



Crl.O.P.No.18011 of 2021

ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records pertaining to Crime No.236 of 2021 dated 12.06.2021 on the file of the respondent and quash the same.

2. A case has been registered against the petitioner by the respondent police in Cr. No.236 of 2021 for the offences under Section 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957.

3. The learned counsel for the petitioner submitted that according to the case of the prosecution the petitioner was seen with two baggages of sand in cement bags and on seeing the police, he rushed away in his two wheeler; but the vehicle bearing Reg. No. TN 20 CF 5152 (Hero Passion Pro motor cycle) seized by the police on account its involvement in the offence, does not belong to the petitioner; during the month of June 2021 when the FIR was registered, the petitioner was working in MRC Logistics and hence his involvement of offences is too remote.



Crl.O.P.No.18011 of 2021

WEB COPY 4. The learned Additional Public Prosecutor submitted that the petitioner is a habitual offender against whom previous cases are pending; but in the averments of the FIR it is stated that when the Police was about to chase the vehicle bearing Reg. No. TN 20 CF 5152, the rider of the vehicle escaped and only during the subsequent enquiry, they came to know that the said vehicle belongs to the petitioner and in which 50 kgs of sand was found.

5. In this case, the respondent police has investigated and found the accused only on the basis of the vehicle number. No records have been produced to show that the the vehicle bearing Reg. No. TN 20 CF 5152, belonged to the petitioner and that the petitioner had ridden the said vehicle on the day of occurrence. Without establishing the fundamental facts, it is not possible to relate the petitioner to the offence. Hence, I feel that it is an appropriate case where the powers of Court should be exercised under Section 482 Cr.P.C. and the petitioner has to be given the benefit of quashing the FIR against him.



CrI.O.P.No.18011 of 2021

6. In view of the above, this Criminal Original Petition is allowed and the case in Cr. No.236 of 2021 on the file of the respondent police is hereby quashed. Consequently, connected miscellaneous petition is closed.

Index: Yes/No
Speaking / Non Speaking Order
bkn

19.09.2022

To

1.The Inspector of Police,
B-3, Kadambathur Police Station,
Kadambathur,
Thiruvallur District.

2.The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.18011 of 2021

R.N.MANJULA, J.

bkn

Crl.O.P.No.18011 of 2021

19.09.2022