



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.03.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.(MD)No.1173 of 2022

&

Crl.M.P.(MD)No.844 of 2022

1. Manikandan

2. Samuvel

...Petitioners/Accused No.1 & 2

Vs.

1. The Sub Inspector of Police,
Shenkottai Police Station,
Tirunelveli District.
(Crime No.293 of 2021)

... 1st Respondent

2. Mariyappan

... 2nd Respondent/Complainant

Prayer: This Criminal Original Petition filed under Section 482 Cr.P.C.to call for the records relating to the proceedings of Crime No.293 of 2021 on the file of the 1st respondent Police and quash the same as against the petitioners herein.

For Petitioners : Mr.K.P.Narayanakumar

For Respondent : Mr.B.Thanga Aravindh

R1 Government Advocate (Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the First Information Report in Crime No. 293 of 2021 on the file of the 1st Respondent.

2.The crux of the complaint is that on 26.09.2021, a lorry bearing registration number TN76AQ 0820 was intercepted and found excess weight of blue metal, ie., Jalli. Hence, the first respondent seized the lorry and registered a case, for the offence punishable under Section 379 IPC. At any cost, no offence is made out as per the averment made out, for the offence under Section 379 IPC. Even, according to the prosecution, instead of 12 cubic meter, the petitioner loaded 13 cubic meter of jalli. Thereby, one cubic meter is excessively loaded and the petitioner has transported the same.

3.In fact, in similar placed matters, the very same first respondent charged the lorry for overload and imposed fine. Whereas, in the case on hand as against the petitioner, the case was registered for the offence under Section 379 IPC, for which, there is absolutely no ingredients are made out to attract the said offence. Therefore, it amounts to clear abuse of process of law and it cannot be sustained.



4. In view of the above, this Criminal Original Petition is allowed and the Crime No.293 of 2021, on the file of the first respondent is hereby quashed. Consequently, connected miscellaneous petition is closed.

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Sd/-

Assistant Registrar (AD II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

PNM

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 Sub Inspector of Police,
Shenkottai Police Station,
Tirunelveli District.
(Crime No.293 of 2021)
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+2 CC to M/s.K.P.NARAYANA KUMAR, Advocate (SR-12120[F] dated 15/03/2022)

ORDER IN
Crl.O.P. (MD)No.1173 of 2022
&
Crl.M.P. (MD)No.844 of 2022
14.03.2022

_SS/25.03.2022 : 2P/5C