



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CrI.O.P.(MD) No.4319 of 2022

in

CrI.M.P(MD)No.3068 of 2022

- 1.R.Jawahar
2. P.Isaac Thangaraj
- 3.Premppaul Nayagam
- 4.Yovan

...Petitioners/Accused

Vs.

1. The Inspector of Police
SIPCOT Police Station,
Thoothukudi District.

...1st Respondent/Complainant

- 2.Suhatha Rahima

...2nd Respondent/
Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to to call for the records relating to the proceedings of the FIR in Crime No.23 of 2022 dated 19.01.2022 on the file of the 1st respondent police and quash the same.

For Petitioners	:	Mr.G.Prabhu Rajadurai
For Respondents	:	Mr.R.M.Anbunithi
No.1		Additional Public Prosecutor

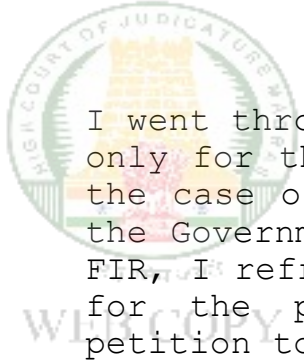
ORDER

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondents.

2.The petitioner had purchased copper slag from M/s.Sterlite Industries Limited for filling his punja lands in S.No.100/3, 101/1, 101/2, 101/3, 129/2A,129/2B,131/2,131/3,97/3Bw,97/3C2/98/3B,99/2B and 126 in Patta Nos. 3256 and 5851 of Meelavittan Part -I Village. Further the petitioners are referred as owners and drivers of two vehicles bearing Reg. No.TN 69 BJ 4885.

3.The petitioner alleges that the copper slag has been certified as a non-hazardous initiated by the Tamil Nadu Pollution Control Board.

4. When the matter was taken up for hearing, the learned Additional Public Prosecutor produced the copy of the FIR in Crime No.23 of 2022 registered on the file of the first respondent. According to the learned Government Advocate (CrI. Side), the impugned action was taken pursuant to the registration of the FIR.



I went through the contents of the FIR. The FIR has been registered only for the offence under Section 379 r/w. 511 of IPC. It is not the case of the respondents that the goods in question belonged to the Government. Since there is no formal challenge to the impugned FIR, I refrain from considering the correctness of the same. It is for the petitioners to file an independent criminal original petition to question the FIR in Crime No.23 of 2022.

5. Now the question now arises for consideration is whether the respondents are justified in retaining the petition mentioned vehicles along with goods and keys. According to the learned Additional Public Prosecutor, the Hon'ble Division Bench of this Court passed an interim stay restraining transport of such material. The learned counsel for the petitioners asserts that there is no such interim order. No interim order has been produced before this Court. It appears that somebody had dumped the copper slag in a running stream and that led to filing of a public interest litigation. Since the respondents have not produced any interim order passed by the Hon'ble Division of this Court, I have to proceed on the premise that there is no restraint against transport of copper slag. In fact as early as on 01.09.2020 in W.P.(MD) No.8135 of 2020, I had specifically held that there can be no objection for removing and transporting of copper slag. Since on the face of it, I find that the FIR is not sustainable and since the respondents are absolutely unjustified in retaining the petition mentioned vehicles and goods, I direct the respondents to forthwith release the petition mentioned vehicles along with the goods and keys.

6. This criminal original petition is allowed accordingly. Consequently connected miscellaneous petition is also closed.

Sd/-

Assistant Registrar (CS III)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

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To

1. The Inspector of Police
SIPCOT Police Station,
Thoothukudi District.

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

+1 CC to M/s.G.PRABHU RAJADURAI, Advocate (SR-10685[F] dated 08/03/2022)

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