



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.03.2022

CORAM

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P(MD)No.5585 of 2022

and

Crl.M.P(MD)Nos.3962 & 3963 of 2022

WEB COPY

1.Kannan
2.Karuppasamy
3.Ganesh
4.Petchikutty

... Petitioners/
Accused Nos.1 to 4

Vs.

1.The State represented by
The Inspector of Police,
Seethaparpanallur Police Station,
Tirunelveli District.
(Crime No.35 of 2020)

... 1st Respondent/
Complainant

2.Antony Raj,
Sub-Inspector of Police - 04,
Seethaparpanallur Police Station,
Tirunelveli District.

... 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 Charge Sheet in P.R.C.No.11 of 2021 pending on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District and quash the same.

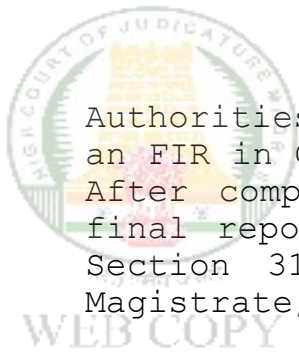
For Petitioners : Mr.P.Krishnasamy

For Respondents : Mr.R.M.Anbunithi
Additional Public Prosecutor
(Criminal Side)

ORDER

This Criminal Original Petition has been filed to quash the impugned Charge Sheet in P.R.C.No.11 of 2021 pending on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District.

2. The case of the prosecution is that one Antony Raj, Sub-Inspector of Police, lodged a complaint before the first respondent Police Station alleging that on 06.03.2020, he along with his team found that Tractor No.575 D1 with Trailer, JCB and two wheeler bearing Registration No.TN-76-AP-3669 was involved in the pond soil theft without getting permission from the concerned Revenue



Authorities. On the said complaint, the first respondent registered an FIR in Crime No.35 of 2020 for the offence under Section 379 IPC. After completion of investigation, the first respondent filed the final report as against all the petitioners for the offence under Section 319 IPC and it is pending before the learned Judicial Magistrate, Alangulam, Tirunelveli District, in P.R.C.No.11 of 2021.

3. The first petitioner is the owner of the vehicle and the second petitioner is the relative of the first petitioner. The person who had been duly contracted by the Public Works Department under the scheme of Tamil Nadu Government to deepen the pond. Accordingly, the Road Inspector is directed the petitioners to deepen the pond on the daily basis and put the available soil in the place where they said. Accordingly, when the petitioners tried to start the vehicle, the present complaint has been lodged as against the petitioners and now charge sheeted for the offence under Section 379 IPC.

4. The learned counsel for the petitioners also produced the letter issued by the Road Inspector, dated 15.03.2020 which revealed that as per the order passed by the District Collector, they deepened the pond, called Kallathikulam pond. They are the members of the Agricultural Committee. Accordingly, to deepen the Kallathikulam pond, the petitioners brought JCB and Tractor.

5. The learned counsel produced the letter issued by the Block Development Officer, Alankulam, dated 04.03.2020 and thereby, directing the Road Inspector to do the said work. Therefore, the petitioners were legally permitted to deepen the Kallathikulam pond. Therefore, no charge is made out as against the petitioners and the entire charge is nothing, but clear abuse of process of law and it cannot be sustained.

6. Therefore, the impugned Charge Sheet in P.R.C.No.11 of 2021 pending on the file of the learned Judicial Magistrate, Alangulam, Tirunelveli District, is quashed. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

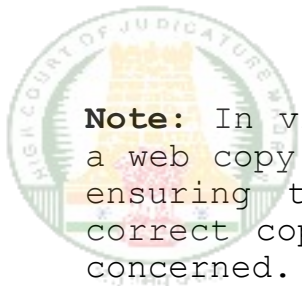
Assistant Registrar (RECORDS)

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/ /2022

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.

WEB COPY

To

1. The Judicial Magistrate,
Alangulam,
Tirunelveli District.
2. The Inspector of Police,
Seethaparpanallur Police Station,
Tirunelveli District.
3. The Sub-Inspector of Police - 04,
Seethaparpanallur Police Station,
Tirunelveli District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.P.KRISHNASAMY, Advocate (SR-15195[F] dated
29/03/2022)

CrI.O.P(MD)No.5585 of 2022
25.03.2022

RK(04/05/2022) 3P 6C