



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 31.03.2022

CORAM:

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

Crl.O.P.(MD) No.5979 of 2022

and

Crl.M.P(MD) No.4187 of 2022

1.Gowtham Pandian

2.Kaliraj

...Petitioners

Vs.

1. The State represented by
The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
(Cr.No.717 of 2020)

2. Balaji

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the F.I.R. in Crime No.717 of 2020 on the file of the 1st respondent police and quash the same as against these petitioner's.

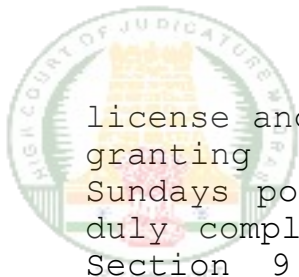
For Petitioners : Mr.V.Kannan

For Respondents : Mr.R.M.Anbunithi
No.1 Additional Public Prosecutor

ORDER

The Criminal Original Petition has been filed to quash the proceedings in Crime No.717 of 2020 , on the file of the first respondent police.

2. There are totally five accused in this case and the petitioners herein are arrayed as A3 and A5. The case of the prosecution is that on 11.10.2020, the second respondent inspected the factory premises where they found some women working and doing fire works. On enquiry they revealed that were threatened to work even on Sunday failing which they will be removed from their employment. The first petitioner is the supervisor of Sri Sun Fire Works and not a lessee as stated by the prosecution. The second petitioner is the police officer who is the father of the first petitioner. Even according to the case of the prosecution there is no allegation as against the petitioners to attract the offences as alleged by the prosecution. Further the said factory has a valid



license and permit bearing License No.31 of 2020. The conditions for granting the license required special permission for working on Sundays post pandemic lockdown relaxation advent and that was also duly complied with by the said factory. Infact the offence under Section 9(B)(1)(b) of the Explosives Substances Act prescribed punishment for any person who in contravention of Rule made under Section 5 of the Act or the conditions of the license, possess, uses, sells or transports any explosive. None of this allegation has been made in the First Information Report as against any of the accused persons. That apart the second respondent is not a competent authority to decide upon the competence of the application made before the Competent authority seeking permission to operate on a Sunday and the Joint Director of Safety and Health, Sivakasi on 09.10.2020.

3. In fact after completion of investigation the first respondent filed final report before the learned Judicial Magistrate No.II, Sattur stating no offence is made out as against the accused persons. The petitioners have already filed quash petition in Crl.O.P(MD) No.2709 of 2021 registered in Crime No. 717 of 2020 and this Court has dismissed the same as infructuous for the reason that the respondent police already completed the investigation and filed the final report. Now it is revealed that the charge sheet has been returned by the learned Judicial Magistrate No.II, Sattur for the reason that there is no charge made as against the accused persons.

4. The proceedings in Crime No.717 of 2020 and its consequential proceedings are nothing but clear abuse of process of law and it cannot be sustained as against the accused persons.

5. In the result, this Criminal Original Petition stands allowed and as a sequel, the proceedings in Crime No.717 of 2020 and its consequential proceedings, on the file of the first respondent police, is hereby quashed. 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,
Vembakottai Police Station,
Virudhunagar District.

<https://hcservices.ecourts.gov.in/hcservices/>



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

+1 CC to M/s.V.KANNAN, Advocate (SR-15938[F] dated 01/04/2022)

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