



CRL.O.P(MD)No.12905 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED: 18.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P(MD)No.12905 of 2022
and
Crl.M.P(MD)No.8183 of 2022

1. Vasantha Raja,
2. D.Marichamy,

: Petitioners

Vs

1.State through
The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
In Crime No.332/2022.

2. Madhava Raj,
Village Administrative Officer,
Inam Maniyachi Village,
Kovilpatti Circle,
Thoothukudi District.

: Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records in Crime No. 332 of 2022, on the file of first



CRL.O.P(MD)No.12905 of 2022

respondent dated 30.05.2022 and quash the same as illegal.

WEB COPY

For Petitioners : M/s. Chengiz Khan.K,

For Respondents : Mr.M.Sakthi Kumar,
Government Advocate (Crl.Side)

ORDER

This criminal original petition has been filed seeking to quash the FIR in Crime No. 332 of 2022, on the file of first respondent.

2.The learned counsel for the petitioners submitted that the petitioners are the driver and owner of the vehicle bearing Registration No.TN-69-T-5166. On 30.05.2022, the complainant intercepted and seized the said vehicle on the ground that they have not obtained valid invoice and at the time of inspection, the driver of the vehicle also did not produce any purchase bill issued by the owner of the Mines. Therefore, the respondent police registered a case in Crime No.332 of 2022 for the offences under Section 379 IPC and Section 21(1) of Mines and Minerals(Development & Regulation) Act, 1957. But, the fact is that since the first petitioner



CRL.O.P(MD)No.12905 of 2022

produced the transit receipt to the police officials, it was not received by them and also they demanded illegal gratification. Hence the FIR has to be quashed.

3.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that the case is under investigation. Further, at the time of intercepting the vehicle, the driver has not produced any valid invoice and transit receipt for taking three units of Jalli (Crusher) stones (1/3 inch). Hence, the case has been registered and pleaded to dismiss this petition.

4. I have considered the submission of the learned counsel appearing for the petitioners and the learned Government Advocate (criminal side) appearing for the respondent police.

5.The Hon'ble Supreme Court in **Indian Oil Corporation vs. NEPC India Limited and others [(2006)6 SCC 736]** laid down the principles relating to exercise of jurisdiction under Section 482 of the Code of Criminal Procedure to quash complaints and criminal proceedings, which



CRL.O.P(MD)No.12905 of 2022

merely on the ground that a few ingredients have not been stated in detail, the proceedings should not be quashed. Quashing of the complaint is warranted only where the complaint is so bereft of even the basic facts which are absolutely necessary for making out the offence.

(v) A given set of facts may make out : (a) purely a civil wrong; or (b) purely a criminal offence; or (c) a civil wrong as also a criminal offence. A commercial transaction or a contractual dispute, apart from furnishing a cause of action for seeking remedy in civil law, may also involve a criminal offence. As the nature and scope of a civil proceedings are different from a criminal proceeding, the mere fact that the complaint relates to a commercial transaction or breach of contract, for which a civil remedy is available or has been availed, is not by itself a ground to quash the criminal proceedings. The test is whether the allegations in the complaint disclose a criminal offence or not.

6. On a perusal of records, it would reveal the fact that on a complaint given by the complainant, the case has been registered in Crime No.332 of 2022, for the offences under Section 379 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, against the



CRL.O.P(MD)No.12905 of 2022

petitioners. I have considered the submission of the learned Counsel appearing for the petitioners that the petitioners had purchased the gravels from Sri Traders and got the invoice and also got trip sheet.

7.On a perusal of the invoice and trip sheet, it reveals the details of the particulars to whom the said materials were sold, are mentioned and the vehicle number is mentioned as TN-69-T-5166, but in the column No.6 (h), the name and signature of the driver of the vehicle is left vacant. Under these circumstances, it has to be investigated whether the FORM F has been prepared before transporting the Minerals or subsequent to the registration of the case.

8.On perusal of impugned F.I.R, it is seen that the allegation therein would *prima facie* make out a case for investigation by the police authority.

9.Further, the Hon'ble Supreme Court in the case of **R.P.Kapur v. State of Punjab (AIR 1960 SC 866)** and subsequent cases, has held that revisional or inherent powers for quashing the proceedings at the initial stage can be exercised only where the allegations made in the complaint or



CRL.O.P(MD)No.12905 of 2022

the first information report, even if taken at their face value and accepted in their entirety, do no prima facie disclose the commission of an offence or where the uncontroverted allegations made in the FIR or complaint and the evidence relied in support of the same do not disclose the commission of any offence against the accused, or the allegations are so absurd and inherently improper that on the basis of which no prudent person could have reached a just conclusion that there were sufficient grounds in proceedings against the accused or where there is an express legal bar engrafted in any provisions of the Code or any other statute to the institution and continuance of the criminal proceedings or where a criminal proceeding is manifestly actuated with mala fide and has been initiated maliciously with the ulterior motive for wrecking vengeance on the accused and with a view to spite him due to private and personal grudge.

10.The Investigating Agency should have the freedom to go into the whole gamut of the allegations and to reach a conclusion of its own. It is not appropriate to quash the complaint since this Court finds no merit in this case.



CRL.O.P(MD)No.12905 of 2022

WEB COPY

11.If the allegations made in the First Information Report *prima facie* discloses a cognizable offences, interference with the investigation is not proper, because that amounts to interfere with the statutory power of the police to investigate a cognizable offences in accordance with the provisions of Cr.P.C. Without thorough investigation, it is not possible or proper to hold whether the allegations made by the complainant are true or not. Hence, the investigation should have been allowed to continue, so that on filing of the final report under Section 173 Cr.P.C, the affected party could pursue its remedy against the final report in accordance with law.

12.Therefore, the police will proceed to complete the investigation fairly on the same expeditious and submit the required final report to the learned Jurisdictional Judicial Magistrate who shall act in accordance with law.

13.In the light of the above factual and legal positions, this Court is of the considered opinion that the FORM F cannot be considered as a genuine



CRL.O.P(MD)No.12905 of 2022

one. Hence, this Criminal Original Petition is dismissed. Consequently connected miscellaneous petition is closed.

18.07.2022

Internet: Yes./No

Index: Yes/no

lr

To

1.The Inspector of Police,
Kovilpatti West Police Station,
Thoothukudi District.
In Crime No.332/2022.

2.The Village Administrative Officer,
Inam Maniyachi Village,
Kovilpatti Circle,
Thoothukudi District.

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



WEB COPY



CRL.O.P(MD)No.12905 of 2022

V.SIVAGNANAM, J.

lr

ORDER IN
CRL.O.P(MD)No.12905 of 2022

18.07.2022