



CRL.O.P (MD) No.13595 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 28.07.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.13595 of 2022

and

CrI.M.P(MD)Nos.8659 and 8374 of 2022

Santhoshkumar

...Petitioner/Accused No.4

Vs.

The Inspector of Police,
Panayapatti Police Station,
Pudukottai District.
(Crime No.34 of 2021)

...Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., praying to call for the records in connection with Crime No.34 of 2021, dated 25.03.2021 pending on the file of the respondent police and quash the same insofar as the petitioner/Accused /No.4 is concerned.

For Petitioner : Mr.A.Vadivel

For Respondent : Mr.M.Sakthikumar
Government Advocate (CrI.side)

ORDER

This petition has been filed to quash the First Information Report in Crime No.34 of 2021, dated 25.03.2021 pending on the file of the respondent police insofar as the petitioner/Accused No.4 is concerned.



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2.The case of the prosecution is that on 25.03.2021, the petitioner and others were involved in sand theft by using two tipper lorries. Hence, a case has been registered in the Crime No.34 of 2021. The petitioner is the fourth accused and he is school going student. To quash the said FIR, the petitioner/A4 filed this petition.

3.The learned counsel appearing for the petitioner/A4 submitted that the petitioner is a school going student and the alleged occurrence is a false one and he is not taking any gravel sand in the tipper lorry and not involved in the sand theft as stated by the prosecution. There is no offence made out as against the petitioner. Hence, the learned counsel seeks to quash the proceedings as against this petitioner.

4.The learned Government Advocate (Crl.side) appearing for the respondent police submitted that the petitioner is the driver of the unregistered JCB which was involved in this sand theft and the case is under investigation. To find out the truth, investigation has to be continued. At this stage, the said F.I.R cannot be quashed. Hence, he pleaded to dismiss the petition.

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



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appearing for the respondent police.

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6. A perusal of F.I.R. shows that the respondent police has seized the tipper lorries bearing Registration Nos.TN-37-BU-0172 and TN-28-AD-0540 and one unregistered JCB at the spot. While taking gravel sand, the petitioner and other accused persons were arrested and the vehicles were also seized. The allegation stated in the First Information Report made a *prima facie* offence. Therefore, investigation has to be conducted to find out the truth in this case.

7.Further, 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.

8.Therefore, the police will proceed to complete the investigation fairly on the same expeditious and submit the required final report to the



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learned Jurisdictional Judicial Magistrate who shall act in accordance with law.

Further, the First Information Report cannot be quashed since it does not satisfy the parameter laid by the Hon'ble Supreme Court in the case of **State of Haryana vs. Ch.BhajanLal (AIR 1992 SC 604)**. Under such circumstances, quashing of the First Information Report does not arise. This Court finds no merits in this case.

9.Accordingly, this Criminal Original Petition stands dismissed.

Consequently connected miscellaneous petitions are also dismissed.

28.07.2022

Index : Yes / No

Internet : Yes/ No

vsd

To

1.The Inspector of Police,
Panayapatti Police Station,
Pudukottai District.

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



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V.SIVAGNANAM, J.

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