



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P.(MD)No.14796 of 2020

and

Crl.MP(MD)Nos.7012 and 7014 of 2020

Alexpandian : Petitioner/Accused No.31

Vs.

1.The Inspector of Police,
M.Kallupatti Police Station,
Madurai District.
(Crime No.104 of 2012)

2.The Inspector of Police,
Ezhumalai Circle,
Madurai District.

: Respondents

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records pertaining to PRC No.22 of 2018 on the file of the Judicial Magistrate No.II, Usilampatti and quash the same.

For Petitioner : Mr.V.Kathirvelu
Senior Advocate
for Mr.J.Senthil Kumar

For Respondents : Mr.RMS.Sethuraman
Additional Public Prosecutor

O R D E R

This petition has been filed seeking quashment of the case in PRC No.22 of 2018 on the file of the Judicial Magistrate No.II, Usilampatti against the petitioner.

2.The case of the prosecution in brief:-

On 02/10/2012, the accused persons were excavating sand from the land in Survey No.410/1 at Thullukuttinayakkanur. The identified vehicles at the place of excavated were seized. On holding licence to excavate the sand in Survey Nos.16/1 and 16/3 in Mallapuram, the accused excavated the sand from the Government Land. In this regard, a case in Crime No.104 of 2012 under sections 379, 420 IPC r/w 21(1) (v) of Tamil Nadu Mines and Minerals Development Regulation Act and section 3(1) of TNPPDL Act was registered, on 02/10/2012.



3.The petitioner herein was arrayed as 31st Accused. This petition is filed mainly on the ground that the petitioner is working in CISF, since 04/06/2017 and he is noway connected with the alleged occurrence. The petitioner is not the owner of the seized vehicle. Before joining the service, the petitioner was a coolie and he has no criminal antecedents. The police based on the assumption that the offenders are all from one village, the name of the petitioner has been included. Even in the FIR, there is no specific allegation against the petitioner.

4.Heard both sides.

5.This petitioner is arrayed as 31st Accused in the final report. As mentioned in the final report, the allegation against this petitioner and others is that all the 40 Accused persons illegally dug the sand in Survey No.410/1 at Thullukuttinayakanur, measuring about 4024 cubic metre. According to the prosecution, the accused 1 and 2 obtained licence to mine the sand in the survey Nos.14/1 and 16/3. But by utilizing the above said licence and permission, they lifted the sand in the above said survey numbers. On the basis of the complaint given by the Village Administrative Officer, the case was registered and investigation was undertaken and final report was filed. The statement of the de-facto complainant shows that the de-facto complainant, who is the Inspector of Police has stated that along with the police team on a tip off, he went to the place of occurrence, at that time he found that the Accused 1 to 26 lifting the sand from the above said survey numbers. On seeing the police party, they tried to flee away from the place of occurrence. However they have been napped. Now after completing the formalities of investigation, finding that all the accused have committed the offence, they have been charge sheeted and some of the persons were absconding and some of the persons were released on bail during the course of investigation and it was taken cognizance under sections 420, 379 of IPC and section 20(1)(IV) of the MMDR Act and section 3 of TNPPDL Act, on 08/11/2018 and committal proceedings are pending before the concerned committal court.

6.Now the learned Senior counsel appearing for the petitioner would submit that nowhere in the final report or during the course of investigation, the specific role that has been played by the petitioner is found out. A bald allegation has been made stating that this petitioner along with the others involved in the above said illegal act.

7.As mentioned earlier, only 26 persons were found to be in indulging the illegal activities. But how the other accused persons have been roped in the above said offence is not clear on record.

8.The learned Senior counsel appearing for the petitioner would submit that this petitioner was working in CISF and during



the relevant point of time, he was not available in the place of occurrence and he was working as Grade-I constable in CSIF. So according to him, in the absence of any specific allegation against him, the criminal proceedings that has been initiated against this petitioner causing trouble to his career. So in the light of the above said argument, the statement of the witnesses that have been recorded during the course of investigation is to be seen. The witness No.1 namely Thirupathi, Witness No.2 namely Chandrasekar, Witness No.3 namely Rajendran, Witness No.4 Tmt.Ananthi and the Witness No.5 Palraj were confirmed the above said raid. But they have not stated anything about the involvement of the accused persons, except stating that in the place of occurrence, only 26 persons were found and the tractor and JCB were seized on the spot. As mentioned earlier, to know as to how the involvement of the petitioner was found and how the materials have been collected during the course of investigation, CD file was called for.

9.The entire CD file has been called for and perused. Perusal of the CD file shows that this petitioner is stated to be a load man. But further details are not available, in which vehicle, he was employed as a load man. He was arrested and remanded to custody and later, released on bail. The arrest memo is available in the CD file. So, he was arrested on the spot itself. So the contention on the part of the petitioner that no specific overtact has been attributed against him and no specific charge is also made against him is not correct on record. It is a matter for trial. When he joined in the CISF is not stated by the petitioner. He produced the ID Card, wherein we find that the date of appointment is mentioned as 04/06/2014, apparently subsequent to the occurrence. A similarly placed person also moved a similar quash petition in Crl.OP(MD) No.252 of 2022 and this court, by order, dated 07/01/2022, dismissed the petition. But however, a direction was issued to the trial court to complete the committal process and also liberty was also granted to the above said co-accused Chinnasamy to file a discharge petition at the relevant point of time. So in the light of the specific allegation that has been made against this petitioner and he was also arrested on the spot itself, I am of the considered view that even though 10 years lapsed from the date of the alleged occurrence, that cannot be construed as valid ground to quash the criminal proceedings.

10.In the result, this criminal original petition is **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

11.After passing of the order, the learned counsel appearing for the petitioner would submit that the case of the year is 2012, so a direction may be issued to the committal court to complete the committal process as expeditiously as possible. Hence, there shall be a direction to the committal court to complete the committal process within a period of one month from the date of receipt of a copy of this order. Further, the concerned trial court is directed



to dispose of the case within the period of five months after the completion of the committal process.

Sd/-

Assistant Registrar (CS II)

// True Copy //

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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.

To,

- 1.The Judicial Magistrate No.II,
Usilampatti.
- 2.The Inspector of Police,
M.Kallupatti Police Station,
Madurai District.
- 3.The Inspector of Police,
Ezhumalai Circle,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.14796 of 2020

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MGJ(27.05.2022) 4P 5C