



Crl.O.P.(MD) No.15500 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 29.08.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.O.P (MD) No.15500 of 2022

and

CrI.M.P(MD) No.10183 of 2022

1. Venkatesh
2. Kannan
3. Vinothkumar

... Petitioners/ Accused Nos. 1 to 3
Vs

1. The Inspector of Police,
Kottampatti Police Station,
Kottampatti,
Madurai District.
(in Crime No.227 of 2022)

... 1st Respondent/Complainant

2. The Sub Inspector of Police,
Kottampatti Police Station,
Kottampatti,
Madurai District.

... 2nd Respondent/Defacto Complainant

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records pursuant to the FIR in Crime No.227 of 2022, for the offences punishable under Sections 379 of I.P.C., r/w. Section 21 (5) of Mines and Minerals (Regulation and Development) Act and quash the same against the petitioners.



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For Petitioners : Mr.Anantha Murugan

For R1 : Mr.M.Sakthi Kumar
Government Advocate (Crl Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.227 of 2022, dated 10.07.2022, on the file of the first respondent.

2. The case of the prosecution is that on 10.07.2022, at about 04.45 a.m., the second respondent got information that the first petitioner herein and others were taking gravels from the first petitioner's own land , without getting permission from the concerned authorities by using the first petitioner's JCB, Tipper Lorry and Tractor with Trailer. The second respondent went to the place of occurrence along with the police officials and found that the petitioners were taking gravels from the first petitioner's land. Therefore, the second respondent registered a case in Crime No. 227 of 2022, for the offences punishable under Sections 379 of IPC r/w Section 21 (5) of Mines and Minerals (Regulation and Development) Act, arrested the second and third petitioners and remanded them to judicial custody.



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Based on the confession statement received from the second petitioner, the second respondent seized the first petitioner's Tipper Lorry bearing Registration No.TN-55-R-6171, JCB bearing Registration No.TN-63-BC 3667 and a unnumbered Tractor along with Trailer.

3. The learned counsel for the petitioners submitted that the respondent police registered the case against the petitioners. The first petitioner's wife is the owner of the land in S.No.145/1C, 145/2, 145/3 and 121/1, she acquired title by way of sale deed, dated 30.11.2020. The first petitioner is the owner of Tipper Lorry, bearing Registration No.TN-55-R-6171, JCB bearing Registration No. TN-63-BC-3667 and the Tractor bearing Registration No.TN-63-BM-3447 along with trailer. The allegations against the petitioners are false. As per the FIR, the petitioner is the owner of the Tipper Lorry bearing Registration No.TN-55-R-6171 and the first petitioner and others had taken the gravels from the land which belongs to the petitioner's wife through JCB bearing Registration No. TN-63-BC-3667,. Therefore, they have not committed any offence. Hence, he prays to quash the proceedings.



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4. The learned Government Advocate appearing for the respondents submitted that the petitioners had not obtained any permission from the competent Revenue Authorities for taking gravel from the land belongs to the wife of the first petitioner.

5. I have considered the submissions made by the learned counsels appearing on either side.

6. On a perusal of the impugned FIR registered in Crime No. 227 of 2022, for the offences under Sections 379 IPC r/w 21(5) Mines & Minerals (Development & Regulation) Act, dated 10.07.2022, by the respondent police, it is seen that the respondent police got information about taking gravel from the land belongs to the Venkatesh/first petitioner and his wife, they visited the place of occurrence and found that the accused persons had taken gravels in the Tipper Lorry bearing Registration No.TN-55-R-6171, the Tractor bearing Registration No.TN-63-BM-3447 along with trailer and JCB bearing Registration No. TN-63-BC-3667. On seeing the respondent police, they escaped from the place of occurrence. On enquiry, they found that the owners of the JCB and the land are Venkatesh and his wife



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respectively. Hence, the case has been registered. Admittedly, the petitioner is the owner of the vehicle and the land belongs to the first petitioner's wife.

They have not taken from gravel from the land to any other place. In these circumstances, no offence is disclosed any cognizable offence in the FIR. In the recent judgment the Hon'ble Supreme Court has set out the principles of law in the case of *Neeharika Infrastructure Pvt.Ltd vs State of Maharashtra and others* reported in **2021 SCC On line SC 315**. Since no cognizable offence is made out, the investigation in Crime No.227 of 2022 cannot be permitted.

7. Considering the above facts, the Criminal Proceedings in Crime No. 227 of 2022, on the file of the first respondent is hereby quashed in respect of the petitioners alone and this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

29.08.2022

Internet: Yes./No
Index: Yes/no
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To

1. The Inspector of Police,
Kottampatti Police Station,
Kottampatti,
Madurai District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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V.SIVAGNANAM, J.

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ORDER IN
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