



Crl.O.P.(MD) No.15797 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 26.10.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P(MD)No.15797 of 2022

and

Crl.M.P(MD) No.10442 of 2022

Thangaraj

...Petitioner

.VS.

1.The Inspector of Police,
Thiruthangal Police Station
Virudhunagar District

2. Umavathi
Village Administrative Officer
Keela Thiruthangal
Virudhunagar District

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C,
praying to call for the records relating to the FIR in Crime No.185 of 2022
on the file of the first Respondent police and quash the same.

For Petitioner
For Respondents

: Mr.T.Lenin KUumar
: Mr.R.Sivakumar
Government Advocate(Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.185 of 2022 pending investigation on the file of the first Respondent police.

2. The learned Counsel for the Petitioner invited the attention of this Court to the contents in the First Information Report. As per the contents in the First Information Report, when the Village Administrative Officer of Keelathiruthangal along with his Village Assistant were on rounds near Molaiattru River they found that the gravel was loaded in a tipper lorry bearing Reg. No. TN 65 M 5230, for which value was fixed as Rs.1000/-. The owner of the vehicle is found to be Vairamuthu, S/o.Velusamy of Govindanallur village and also another tipper lorry bearing Reg. No. TN 63 AS 3828 in which three unit of gravel was loaded and the value was fixed as Rs.3000/- The owner of the tipper lorry was Thangamuniyandi, S/o.Velusamy of Govindanallur Village. They also found a JCB bearing Reg. No.TN 55BA 5371, which is used for loading gravel. The owner of the JCB was Thangaraj, S/o.Gurumurthy of Milagaipatti Village. Based on the



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report of the Village Administrative Officer, the Sub Inspector of Police had registered a case in Crime No.185 of 2022.

3. It is the submission of the learned Counsel for the Petitioner that as per the Mines and Minerals (Development and Regulation) Act, the police officer does not have power to register the case or investigate the case. It is to be treated as private complaint by the Tahsildhar concerned. The police officials were directed by the Hon'ble Division Bench of this Court to investigate the cases regarding sand theft and file a report before the Tahsildhar concerned with a specific direction that only Tahsildhar concerned can file report before the Court concerned.

4. The learned Counsel for the Petitioner relied on the G.O.Ms.No.12, Industries MMC1, dated 02.02.2009, which reads as follows:

“No.II/IND/170/2009 – Under Section 22 of the Mines and Minerals (Development and Regulation) Act,1957(Central Act 67 of 1957) and in supercession of Industries Department Notification No. 319, published at page 1 in part II-Section 2 of the Tamil Nadu Government Gazette Extraordinary, dated June 22,1994 the



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Government of Tamil Nadu hereby authorises the District Forest Officers and the Police Personnel not below the rank of Inspector of Police to make complaint in writing to the Court of competent jurisdiction for any offence punishable under the said Act or any Rules made thereunder, in respect of cases falling within their jurisdiction”

5. Only the Tahsildhar has to prefer private complaint before the Special Court, i.e., the Principal District Judge of the District concerned. In this case the first Respondent has no power to investigate the case.

6. The learned Government Advocate(Crl.Side) objected to the line of argument of the learned Counsel for the Petitioner stating that as per the Mines and Minerals (Development and Regulation) Act, alone the Tahsildhar has power, at the same time, it is case under Section 379 of IPC, for which the first Respondent has power. Therefore the learned Government Advocate(Crl.Side) seeks to dismiss the petition as it is not maintainable.



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7. By way of rejoinder the learned Counsel for the Petitioner relied the order passed by this Court in CrI.O.P(MD) No.534 of 2022 dated 19.07.2022, wherein the relevant para is extracted hereunder :

“4. Be that as it may, proceeding against the person for any of the offence punishable under Section Mines and Minerals (Development and Regulation) Act, cognizance can be taken only on the basis of the complaint by the competent person as envisaged in the said Act ”

8. On considering the rival submission, the contention of the learned Counsel for the Petitioner is found acceptable in the light of the order passed by the learned Single Judge of this Court and the First Information Report is liable to be quashed. At the same time, the second Respondent shall file report before the Tahsildhar concerned. The Tahsildhar concerned shall prefer private complaint before the Special Court under the Mines and Minerals (Development and Regulation) Act.

9. In the light of the above discussion, this Criminal Original Petition stands allowed and the First Information Report in Crime No.185 of 2022 on the file of the first Respondent is hereby quashed granting liberty to the prosecution to launch prosecution against the Petitioner based on the report



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of the Village Administrative Officer by the authority under Section Mines
and Minerals (Development and Regulation) Act.

10. With the above direction, the Criminal Original Petition is
disposed of. Consequently connected miscellaneous petition is closed.

26.10.2022

Index: Yes/No
Internet: Yes/No

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To

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



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SATHI KUMAR SUKUMARA KURUP, J.

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