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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

(Criminal Jurisdiction)

Dated: 23/09/2022

PRESENT

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.RC(MD)Nos.838, 842 and 843 of 2022

and

Crl.MP(MD)Nos.10534, 10547 and 10548 of 2022

(1)Crl.RC(MD)No.838 of 2022:-

K.T.Rajamohan : Petitioner/Petitioner/A7

Vs.

State represented by
The Inspector of Police,
B2 Keelavalavu P.S.
Madurai.

(In Crime No.158 of 2012) : Respondent/ Respondent/
Complainant

Prayer:-This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records relating to the order, dated 25/07/2022 passed in Crl.MP No.1385 of 2022 in Spl. SC No.23 of 2021 by the Special Court for MMDR Cases, Madurai and set aside the same.



2

(2) Cr1.RC(MD)No.842 of 2022:-

M/s.Om Sri Granites,
represented by its Managing Partner,
K.Sailaja Reddy : Petitioner/Petitioner/A1

Vs.

State represented by
The Inspector of Police,
B2 Keelavalavu P.S.
Madurai.
(In Crime No.206 of 2012) : Respondent/ Respondent/
Complainant

Prayer:-This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records relating to the order, dated 25/07/2022 passed in Cr1.MP No.1393 of 2022 in Spl. SC No.36 of 2021 by the Special Court for MMDR Cases, Madurai and set aside the same.

(3) Cr1.RC(MD)No.843 of 2022:-

K.T.Rajamohan : Petitioner/Petitioner/A9

Vs.

State represented by
The Inspector of Police,
B2 Keelavalavu P.S.
Madurai.
(In Crime No.222 of 2012) : Respondent/ Respondent/
Complainant

Prayer:-This Criminal Revision has been filed under section 397 r/w 401 of the Criminal Procedure Code to call for the records relating to the order, dated 25/07/2022 passed in Cr1.MP No.1387 of 2022 in Spl.SC No. 8 of 2021 by the Special Court for MMDR Cases, Madurai and set aside the same.



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3

For Petitioner : Mr.S.G.L.Rishwanth
(in all cases)

For Respondent : Mr.S.Ravi
(in all cases) Additional Public Prosecutor

COMMON ORDER

These criminal revisions have been filed seeking to set aside the order, dated 25/07/2022 made in CrI.MP Nos.1385 of 2022 in Spl. SC No.23 of 2021, 1393 of 2021 in Spl. SC No.36 of 2021 and 1387 of 2022 in Spl SC No.8 of 2021 by the Special Court for MMDR Cases, Madurai.

2.The fact in brief:-

One G.G Granites is owned by G.Gopalakrishnan. He obtained lease for doing quarry operation in survey Nos. 48/1A, 49/1B, 49/2A, 49/2B, 48, 46/3C(P), 215/5A at Vellaur and in survey No.215/5A and 215/5B at Thaniyamangalam villages, as per the G.O(3D)No. Industries (MMBI) Dept. dated 04/03/2004, dated 04/03/2021. The above said G.G Granites entered into a raising contract agreement with M/s.Om Sri Granites, for the purpose of conducting quarry operation.



3.As per the case of the prosecution in respect of Crime No.206 of 2012, on the inducement made by A1 to A3, A6 brought explosives in a vehicle bearing registration No.TN-37-F-6058. A7 used the above said explosives to quarry granite stones. The remaining cortex wires were stored on site in a iron box. That iron box was found by the de-facto complainant, who was working as Village Administrative Officer at the time of counting marbles. As per the analysis report, the above said articles were found to be high explosive substances. So finding that all the accused joined together, conspired and committed the offence punishable under sections 120(B) IPC, 6 r/w 3(a), 4(a), 4(b), 5(a) of Explosive Substance Act and section 3(a), 4(a), 4(b), 5(a) of Explosive Substances Act and subsequently, final report has been filed. Similarly, FIR in Crime Nos.158 of 2012 and 222 of 2012 have been registered against the accused persons and subsequently final reports were also filed before the concerned Court.



4. Seeking discharge, petitions have been filed before the trial court. By separate orders, the petitions filed by the petitioners came to be dismissed. Challenging the above said dismissal orders, these petitions came to be filed.

5. Heard both sides.

6. Since common question of facts arise in these revisions, they have heard jointly and this common order is passed.

7. It is a case of corporate criminal liability.

8. The accused namely Sailaja Reddy is the Managing Partner of the company called 'Om Sri Granites'. It was issued with licence for making quarry operations, as stated above. In turn, the accused K.T. Rajamohan entered into an agreement with G.G. Granites for the purpose of conducting quarry operation as stated above. Later, Al namely Om Sri Granites executed a power of attorney in favour of the accused namely K.T. Rajaohan, who represented the company in all the operations of the



quarrying and connected matters. The above said quarry is situated in Vellalur and Thaniyamangalam villages. In pursuance of the above said power of attorney, the above said K.T.Rajamohan on behalf of A1 company entered into the lease agreement with the company, on 14/04/2004. So in the back ground circumstances of the case, the present occurrence said to have been taken place, in which all the accused persons have been arrayed as accused.

9.Now the case of the M/s. Om Sri Granites is that none of the witnesses have been examined and during the course of investigation has not spoken anything about this petitioner and this petitioner is not related to A4 and A5; No material was also collected during the course of investigation to connect this petitioner to the crime. According to them, this petitioner, being the company represented by the Managing Director cannot be criminally held liable for the action, that has been committed by the 3rd parties. According to them, no provision is also available in the Explosive Substances Act to include the company holding that it is liable for criminal proceedings ,vicariously.



10.The learned Additional Public Prosecutor would submit that this petitioner namely Om Sri Granites is the licence holder and the Government Order was also issued in the name of the company. He would rely upon the Rule 19 of the Explosive Substances Act stating that there is a specific provision to the effect that explosives must be stored in the specified places. Violation is not permitted.

11.It is further submitted that one Gopalakrishnan is the owner of the above said G.G.Granites, who entered into the criminal conspiracy with A1, filed similar petition for discharge and that was dismissed by the trial court, over which, revision petition was filed and that was also dismissed and against which, he filed SLA before the Hon'ble Supreme Court and that also came to be dismissed.

12.The learned Additional Public Prosecutor would submit that the accused persons are dragging the matter without cooperating for the trial process and one after another, they are filing similar petitions.



13.The learned counsel appearing for the petitioner in the Cr1.RC(MD)No.838 of 2022 would say that it is actually a power of attorney, it is not related to the quarry operation and except signing in the contract, he is as not involved in the above said occurrence and no criminal conspiracy can be attributed against the petitioner. All the persons, who have examined during the course of investigation has stated very many things that they undertook to file an undertaking.

14.But contra, the learned Additional Public Prosecutor would submit that this petitioner is actively involved in the offence and the statement of the witnesses have been recorded. It is also further submitted that this petitioner is also involved in similar cases, in Crime No.158 of 2012 on the file of the Kilavalavu Police Station and in Crime No.228 of 2018 on the file of the very same police station. So according to the learned Additional Public Prosecutor, all the accused persons involved in the exploitation of natural resource to their advantage.



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15.The learned counsel appearing for the petitioner would rely upon the judgment of the Hon'ble Supreme Court in the case of Union of India (UOI) Vs, Prafulla Kumar Samal and others (1979)3 SCC (Cri)609; Shiv Kumar Jatia Vs. State of NCT of Delhi (2019)17 SCC 193 and Ravindranath Bajpe Vs. Mangalore Special Economic Zone Ltd., and another (AIR 2021 SC 4587) and contended that no specific overtact has been attributed against the petitioners in the final report implicating them in the criminal activity and day today affairs of the company.

16.Corporate of criminal liability has been now more or less well settled in a number of cases. So we need not trouble this order by reproducing the verbatim observation. In the above said cases, now we can reach a point that specific point must be made with regard to the specific role, that has been alleged to have made by the Director of the company, When the company has shown as an accused.

17.Now a common ground that has been made in the petitions is that the petitioners are not involved in the day today activities of quarrying operations. Some one



might stored explosives in that place, for which the petitioners cannot be held responsible or liable. But the offence of 120-B IPC has been included.

18. Whether there was any meeting of mind between all the accused persons is a matter for trial. Now sufficient materials have been collected and final report has been filed before the concerned Court.

19. One of the similarly placed person namely A3-G. Gopalakrishnan moved this court and that was dismissed after elaborate discussion and that was also confirmed by the Hon'ble Supreme Court. But liberty was granted to A3 to put forth his plea before the trial court. The observations that have been made by this court in Cr1.OP(MD)No.2127 of 2022, dated 25/07/2022 was ordered to be confined only for the limited purpose of disposing the criminal original petition.

20. As stated above, A3-G. Gopalakrishnan entered into a raising agreement with A1. When the plea of discharge has been negatived, naturally these petitioners who are standing on the very same footing are not entitled for discharge.



21. More over, reading of the partnership agreement itself shows that K.Salaja Reddy is shown as the Managing Partner of the Company called 'Om Sri Granites' and she is responsible for the day today activities. So in such circumstances, the discharge applications that were filed by the petitioners were dismissed by the trial court by taking note of the relevant facts.

22. Absolutely, I find no reason to interfere in that order. It does not suffer from any illegality or irregularity. The magnitude of the offence and the way in which it has been committed requires thorough trial process. So, I find no merit in these revisions.

23. In the result, all the criminal revisions are **dismissed**. Consequently, connected Miscellaneous Petitions are closed.

23/09/2022

Index: Yes/No
Internet: Yes/No
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12

G. ILANGO VAN, J

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To,

- 1.The Special Court for MMDR Cases,
Madurai.
- 2.The Inspector of Police,
B2 Keelavalavu P.S.
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.RC(MD) Nos.838, 842 and 843 of 2022

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