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CrI.O.P.(MD) No.16463 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.11.2022

CORAM

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

CRL.O.P (MD) No.16463 of 2022

and

CrI.M.P(MD) No.10948 of 2022

Shanmugaiyapandian

...Petitioner

VS

**The Inspector of Police
Sattur Taluk Police Station,
Virudhunagar District**

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C, praying to call for the records relating to the First Information Report dated 22.05.2022 in Crime No.118 of 2022 pending on the file of the Respondent police and quash the same as against the Petitioner alone.

For Petitioner : Mr.AK.Azagarsami

For Respondent : Mr.B.Nambiselvan

Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to quash the First Information Report dated 22.05.2022 in Crime No.118 of 2022 pending on the file of the Respondent police

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2. The learned Counsel for the Petitioner would submit that the First Information Report in Crime No.118 of 2022 was registered on 22.05.2018 for the offences under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. He would further submit that investigation had not been completed. Therefore he seeks to quash the First Information Report on the ground that within specified time charge sheet was not filed as per Section 468 of Cr.P.C.

3. The learned Additional Public Prosecutor objected to quash the proceeding stating that here in this case the Petitioner was arrested based on the confession statement of the co-accused. He would further submit that the Petitioner did not have license for mining sand. Therefore he was arrested and prosecuted. He also relied on the order passed by the learned Single Judge of this Court in Crl.RC(MD) No.254 of 2021 dated 11.11.2022 before the Principal Bench of this Court. The relevant para of the said order reads as follows:

“9.He further submitted that in this case, the petitioner was instrumental for granting license to his son/A2 and others. The trial Court considering all these aspects and finding sufficient materials, dismissed the discharge petition. In this case, prima facie materials available to proceed



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against the petitioner and other accused. Further, the statements of the Revenue and Mining officials, District Collector and others clearly prove illegal quarrying of red soil by the petitioner, his son and relatives. Further, it is a case of conspiracy, which has to be decided only during trial and not at this stage. It is not the case of the accused that they had obtained license for quarrying the red soil earlier in the patta lands. That being so, how old quarried pits found in the lands, is not known and, for which, no answer or explanation by the accused. Thus, illegal quarry had been going on for years together. He further submitted that after the petitioner became Minister, attempts made to cover up the illegal mining, which facts are to be looked into during trial on the evidence produced. A passing reference made in the order by the trial Court that the provisions of the Mines and Minerals (Development and Regulation) Act, 1957 does not attract, cannot be given undue importance. The trial Court is yet to frame charges against the accused. Only on framing of charges, whether at all the charges under the Mines and Minerals (Development and Regulation) Act, 1957 are included or not is to be looked into. At the stage of framing of charge, the Court need not go in detail about the veracity and otherwise of the statement of the witnesses and documents”.

He would also submit that investigation is almost completed and they are ready to file final report. Hence he seeks to dismiss the petition.



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4. Since the case involves Mines and Minerals (Development and Regulation) Act, as per the direction of the Hon'ble Supreme Court that Section 482 of Cr.P.C cannot be used to quash the First Information Report or the Charge Sheet regarding Mines and Minerals (Development and Regulation) Act, the petition is liable to be dismissed.

5. In the result, the Criminal Original Petition stands dismissed with a direction to the Respondent Police to file final report before the Court concerned within a period of one month from the date of receipt of a copy of this order. Consequently connected miscellaneous petition is closed.

14.11.2022

Internet: Yes./No

Index: Yes/no

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To

1. The Inspector of Police
Sattur Taluk 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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