



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23/02/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P.(MD)No.13948 of 2019

and

Crl.MP(MD)No.8505 of 2019

WEB COPY

1.Kalidhas
2.Murugan
3.Chockalingam

: Petitioners/A1 to A3

Vs.

1.The Inspector of Police,
Thirupachethi Police Station,
Sivagangai District.
(Crime No.102 of 2019)

: R1/Complainant

2.N.R.Murugan
Village Administrative Office,
Thirupachethi North,
Sivagangai District.

: R2/De-facto Complainant

Prayer: Criminal Original Petitions have is filed under Section 482 Cr.P.C., to call for the records pertaining to the impugned FIR in Crime No.102 of 2019 on the file of the respondent police and quash the same.

For Petitioner : Mr.G.Karuppasamy Pandiyan
For Respondents : Mr.P.Kottai Chamy
Government Advocate (Criminal side)

O R D E R

This petition has been filed seeking quashment of the case in Crime No.102 of 2019 on the file of the respondent police.

2.The case of prosecution in brief:-

The de-facto complainant is the Village Administrative Officer attached to Thirupachethi north village. On information, the de-facto complainant visited the place of occurrence on 29/07/2019 at about 5.00 am and found that a vehicle bearing registration No.TN-67-8237 TATA ACE was found transporting river sand illegally. All the three persons namely Kalidass, Murugan and Chokkalingam were handed over to the police station along with the above said 26 bags of river sand. Based upon the said occurrence and the complaint given by the de-facto complainant, a case under section 21(1) of the Tamil Nadu Mines & Minerals (Development & Regulation Act), 1957 and



section 379 IPC was registered.

3. Seeking quashment of the above said FIR, this petition has been filed by three accused persons on the ground that the 2nd petitioner is the owner of the land in survey No.47/12 and from that land only, he lifted sand for domestic purpose I.e., for the purpose of constructing the house and the other petitioners helped to him. The father of the 2nd petitioner sent a petition to the de-facto complainant seeking permission to lift the sand for the domestic use. It has been clarified by the Thasildhar, Thirupuvanam that the 2nd petitioner has taken the sand from his own patta land in survey No.47/12, but survey No.60/1 has been wrongly mentioned in the complaint.

4. Heard both sides.

5. It is a case of illegal sand mining and theft. According to the prosecution, as mentioned above, the petitioners alleged to have been illegally mining the sand in survey Nos.47/12 and 16/1 and illegally transported the same. It is the case of the petitioners that survey No.47/12 belongs to the father of A2, who is the 2nd petitioner. For that purpose, he has also produced the on line patta, wherein we find that 1.7.50 acres standing in the name of Ramalingam Pillai. So according to the 2nd petitioner, since it is the patta land, he is entitled for taking sand for domestic use.

6. The another contention is that survey No.60/1 is the Government poramboke land and it has been wrongly stated in the complaint that sand was also taken from that survey number. The Tashildhar, Thirupuvanam has given a certificate as well as official memorandum, dated 18/09/2019 setting out the above facts. But it has been mentioned that in the patta land namely survey No.47/12 without proper permission the 2nd petitioner has taken the sand.

7. According to the prosecution, even though the survey No.47/12 belongs to the father of the 2nd petitioner, even though taking the sand from the above said land, as per the Rules and Provisions of the Tamil Nadu Mines and Minerals Development Regulation Act, 1947, proper permission is required. But this contention on the part of the prosecution is not acceptable.

8. We can straightway go to Rule 17 of TAMIL NADU MINOR MINERAL CONCESSION RULES, 1959, which reads as follows:-

"17. Quarrying by the Owner:- A registered holder may quarry free of charge any minor mineral on a small scale for his own use for a specific bonafide domestic or agricultural purpose, provided that he has no intention of continuing quarrying operations indefinitely and provided further that the land is not in any way rendered less fit for cultivation than



before.”

9. So from the above said Rule, it is seen that the owner of the patta land is entitled to quarry the sand for his domestic purpose. It is also mentioned in the official memorandum of the Thasildhar, Thiruppuvanam that the sand has been taken for the purpose of using the domestic activity. So, Rule 17 clearly bars the prosecution.

10. In view of the above facts, this criminal original petition stands **allowed**. The entire proceedings in FIR No.102 of 2019 pending on the file of the 1st respondent police is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (T&P)

// True Copy //

/ /2022

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 Inspector of Police,
Thirupachethi Police Station,
Sivagangai District.
2. Village Administrative Office,
Thirupachethi North,
Sivagangai District

Copy to

The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

Crl.O.P. (MD) No.13948 of 2019
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SRR(CO)
KB(09.03.2022) 3P 4C