



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 28.01.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P. (MD)No.20558 of 2021

and

CRL.M.P. (MD)No.11710 of 2021

Arumugam

... Petitioner / Sole Accused

Vs.

1. State rep. By,
The Inspector of Police,
Tamil University police station,
Thanjavur District.
(Crime No.710 of 2021) ... 1st Respondent / Complainant
2. Muthu,
Assistant Geographical Officer,
Mines and Minerals Department,
Thanjavur District. ... 2nd Respondent /
Defacto Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records relating to the FIR in Crime No.710 of 2021 dated 29.11.2021 on the file of the first respondent police and quash the same as illegal.

For Petitioner : Mr.M.Prabu
For R-1 : Mr.M.Sakthi Kumar,
Government Advocate (Crl. Side).

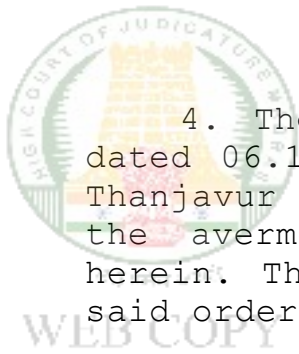
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O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent.

2. The petitioner is figuring as an accused in Crime No.710 of 2021 registered on the file of the first respondent for the offences under Section 379 of I.P.C. and Section 21(1) of the Mines and Mineral (Development and Regulation) Act, 1957.

3. To quash the same, this criminal original petition has been filed.



4. The petitioner's counsel drew my attention to the order dated 06.12.2021 passed by the learned Principal Sessions Judge, Thanjavur in Cr.M.P.No.5749 of 2021. Though it is a bail order, the averments set out therein clearly favour the petitioner herein. The learned Principal District Judge has observed in the said order as follows:-

" The learned counsel appearing for the petitioner submitted that the petitioner has transported the sand with valid permit and in this regard, to substantiate his contention, he has produced the original transit pass and tax invoice wherein, it is seen that the petitioner has acquired permission for transportation of p-sand from Karur to Thanjavur for the period from 28.11.2021 to 30.11.2021. In order to verify the genuinity of the said transit pass, this Court directed the petitioner to produce its original to the Public Prosecutor and at the time of producing the original permit, the revenue officials who seized the vehicle and S.I. of Police who registered the FIR are also present and they all fairly conceded that the petitioner is having valid permit. Considering the above said original document produced by the petitioner's counsel and the submission of the learned Public Prosecutor, other facts and circumstances of the case and perusal of the records, period of incarceration and in the absence of any objection on the prosecution, this Court is inclined to enlarge the petitioner on bail. "

5. I wanted the learned Government Advocate (Crl. Side) to confirm the correctness of the said averments. That is why, the matter was adjourned. Today when the matter was taken up for hearing, the learned Government Advocate confirmed the correctness of the averments set out in the said order dated 06.12.2021. Therefore the very basis of the prosecution is completely undermined.

6. Therefore, the impugned First Information Report is quashed. This criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

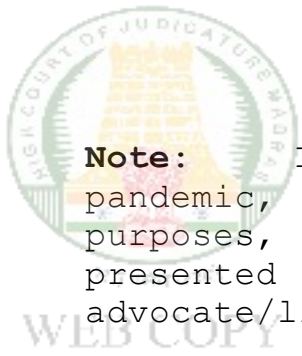
Sd/-

Assistant Registrar (AS)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)



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,
Tamil University police station,
Thanjavur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD)No.20558 of 2021

28.01.2022

USK/23.02.2022/3P/3C