



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 10.01.2022

Delivered on : 28.01.2022

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CORAM

THE HONOURABLE DR. JUSTICE G.JAYACHANDRAN

Crl.OP(MD)No.12136 of 2017

and

Crl.M.P. (MD)Nos.8398 and 8399 of 2017

1.C.Azad @ Azad Mohammed
2.C.Rajkaboor
3.K.Heera Lal
4.R.Kasaniya
5.H.Sheela Begum @ Ashma Begum
6.S.Shakila Begum
7.P.Birose Begum
8.Rani

... Petitioners / A5 to A7 &
A10 to A14

Vs.

1.The State,
Rep. through the Inspector of Police,
Keelavalavu Police Station,
Melur, Madurai District.
[Crime No.166 of 2012]

... 1st Respondent / Complainant

2.The Village Administrative Officer,
Keelavalavu,
Melur Taluk,
Madurai District.

... 2nd Respondent /
De-facto Complainant

Prayer: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records of the case in P.R.C.No.12 of 2016, on the file of the learned Judicial Magistrate, Melur, and quash the same as against the petitioners.

For Petitioners
For Respondents

: Mr.S.Saravanakumar
: Mr.Hassan Mohammed Ali Jinnah
Public Prosecutor &
Mr.A.Thiruvadikumar
Additional Public Prosecutor

ORDER

This Petition to quash the final report in P.R.C.No.12 of 2016, on the file of the learned Judicial Magistrate, Melur, and quash the same as against the petitioners, is allowed. The records of the case in P.R.C.No.12 of 2016, on the file of the learned Judicial Magistrate, Melur, are to be destroyed by the A5 to A7 and A10 to A14.

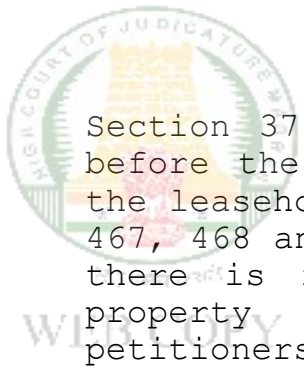


2. The brief facts of the case is that the Village Administrative Officer of Saruguvalayapatti Village, Melur Taluk, on 12.08.2012 gave a written complaint to the first respondent Police informing that M.R. Granites having Office at No.786, Madurai Main Road, Melur, had obtained lease to quarry granite in S.No.245/A, 1B, 2, 3, 4, 5, 6 and 7 to an extent of 5.45.0 Hectares in R.O.C.No.485/1999/M and G.O.(3D)No.4, dated 08.01.2001. Having obtained lease to quarry those specific survey numbers alone, the said Company had extracted minerals from S.No.248, which belongs to Government and S.No.250/1, which is meant for Adi-Dravidar graveyard. The said M.R. granites had encroached upon the Government land and Adi-Dravidar graveyard, for extracting sand and stone. Extract stones in the said Government and public land are dumped it in the said land. Further, two lorries were seized from the said land. Both the vehicles were carrying the same registration number.

3. On receipt of the said complaint, the Police has taken up investigation and on completion of investigation, had filed final report before the learned Judicial Magistrate, Melur, on 05.06.2015 and the same has been taken on file in P.R.C.No.12 of 2016 by the learned Judicial Magistrate for committal on being *prima facie* satisfied that the materials placed before the Court indicates the offences under Sections 147, 447, 379, 420, 434, 465, 467, 468, 471, 304(ii) read with Sections 511, 120-B, 109, 114 and 297 of I.P.C. and Sections 3(i) (ii) and 4 of TNPPDL Act, 1992 and Sections 3(a) and 4(a) of the Explosive Substances Act, 1908 read with Section 3 (1)(iv) and 3(1)(xiv) of SC/ST (POA) Act, 1989. The said final report is against 23 accused and same is sought to be quashed in this Criminal Original Petition by A5 to A7 and A10 to A14.

4. The petitioners/A5 to A7 and A10 to A14 in this Petition to quash allege that the witnesses for the prosecution are set up witnesses. The statements of witnesses alleging the petitioners 4 to 8 actually involved in the crime is unbelievable, since they are all Purdah Muslim Women not to be seen. The final report is nothing but replica of evaluation report of the special team, which is subject matter of objection before the District Collector. The statement of the Auditor L.W.18 clearly shows that the fourth petitioner R.Kasaniya, who is the wife of Rabeek Raja, is noway connected with M.R. Granites. Despite his statement, the prosecution has implicated the wife of Rabeek Raja and other female family members only with *mala fide* intention and to harass him. The final report is clearly abuse of process of law and therefore, the charge sheet has to be quashed.

5. Apart from the above said grounds, it is also contended that though the final report indicates the petitioners have committed the offence of theft and liable to be prosecuted under



Section 379 of I.P.C., no material object was seized and produced before the Court. Similarly, there is no material recovered from the leasehold area to ascertain any offence under Sections 420, 465, 467, 468 and 471 of I.P.C. committed by the petitioners. Similarly, there is no material to show that destruction/damage to public property or violation of Explosive Substances Act by the petitioners.

6. Though 70 witnesses were examined, the material placed is not sufficient to frame charge and try the petitioners herein for the so-called offences and therefore, the final report has to be quashed.

7. Per contra, the first respondent has filed counter affidavit along with typed set of documents and would submit that the 164 Cr.P.C. statement of witnesses Ayyanar and Arumugam recorded by the learned Magistrate, the income tax return and consolidated balance sheet of the second accused Rabeek Raja and his family members coupled with the statement of the Auditor clearly indicates that the granite activity in the name of M.R. Granites was collectively done by the family members of A2, who are the petitioners in this Criminal Original Petition. They have derived income from the said business and filed income tax return indicating that the TDS deducted by Madurai Granites Exports and Granite Company for the payments made to the petitioners. In the two vehicles seized bearing the same registration number, the name of Madurai Granites inscribed and the said vehicles have been used to transport the illegally extracted granites.

8. The learned Public Prosecutor relying upon the statement of A2 would submit that though A2 refused to sign the statement given to the Police, the information disclosed by A2, which are in exclusive knowledge of the second accused are inculpatory in nature, wherein the role of his family members both male and female in the business have been disclosed. Therefore, just because, the petitioners 4 to 8 are Muslim Purdah Women, they cannot take advantage of that and seek quash the final report when there is adequate material to show that they are actively carrying on business and had derived income from the granite business both through legal and illegal extraction and paid income tax out of it and in the course of granite business, apart from extracting granite from the permitted area, they have extended their operation to the non-permitted area and also had stocked it in the Government land destroying public amenities and resources.

9. In the counter affidavit filed by the State, the chart of the overt act of the respective accused persons in the offence has been provided. On perusal of the said Chart, it is clear that sufficient material available to frame charges and it is not a fit case to quash the charge sheet under Section 482 of Cr.P.C.



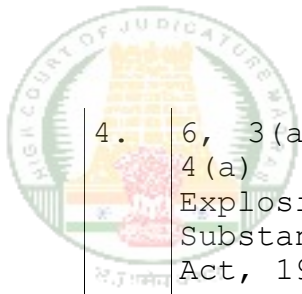
10. For better appreciation, the said Chart is reproduced below:-

Sl. No	Offences committed by Accused (Sec. of law)	Period of offence	Overt Act by each accused	Oral Evidence u/s.161 (3) Cr.P.C.	Document Evidence
1.	147, 447 I.P.C.	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	The witnesses had spoken A2 to A23 unlawfully assembled in the quarry site on that day of first occurrence and trespassed into the Non-leasehold Govt. Poramboke land in Vedankulam Poramboke in S.F.Nos.251and in S.F.No.226/9 of Panjapandavarkulam and in S.F.No.248 of assessed waste and also in S.F.No.246/16, 17 of unassessed waste - Govt. Parai Poramboke.	Witnesses No.22 to 27, 33 & 34 in the Memo of the evidence, namely, 22) Ammasi 23) Nallan 24) Mohandass 25) Karupiah 26) Mari 27) Subramani 33) Ayyanar 34) Arumugam	164 Cr.P.C. statements of witnesses 33) Ayyanar 34) Arumugam
2.	434 IPC	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	A2 to A8 and A10 to A22 instigated A9 and A17 to remove the boundary stones and as per their abetment A19 and A17 removed the boundary stones.	Witnesses No.22 to 27 in the Memo of the evidence namely, 22) Ammasi 23) Nallan 24) Mohandass 25) Karupiah 26) Mari 27) Subramani Witnesses No.39) Arumugam (Photographer)	1) Observation Mahazar. 2) Photographs.



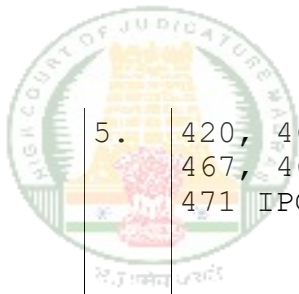
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3.	379 I.P.C.	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	In order to commit theft of granites in the Govt. land A2, A4, A5 and A22 removed top soil. A7 & A19 transported the top soil. A10 to A14 assisted the other accused to commit theft of granites marked the Govt. land with a Tape. In order to commit theft, A6, A8 and A20 drilled the Govt. land by Compressor. A23 used explosive substances to blast the Govt. land. A9, A16 and A21 tied the granite blocks by using ropes. A15, A18 and A20 using crane lifted the granite blocks from the Govt. land. A7 and A19 drove the granite loaded lorry to their destination. A10, A13 ordered the other accused to store the granite blocks in Mayanam Poramboke belonging scheduled caste people.	Witnesses No.22 to 27 in the Memo of the evidence. [Eye witnesses] 22)Ammasi 23)Nallan 24)Mohandass 25)Karupiah 26)Mari 27)Subramani & Witnesses No. of 41 to 54 [Officials who inspected and prepared evaluation report] Witnesses No.39 Arumugam [Photographer]	1) Evaluation report theft of granites blocks worth Rs.97.27 Crores. 2) Preliminary Team Report 13.08.2012 3) A-Register, FMB Sketch of Vedankulam Poramboke in S.F.No.251 and in S.F.No.226/9 of Panjapandavar kulam and in S.F.No.248 of assessed waste and also in S.F.No.246/16 , 17 of Govt. unassessed waste Parai Poramboke 4) Photographs
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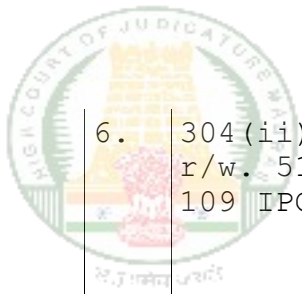
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4.	6, 3(a) & 4(a) of Explosives Substances Act, 1908	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	In order to blast the Govt. land using Explosives Substances A2, A4, A5 and A22 removed top soil. A7 and A19 transported the top soil. A10 to A14 marked the Govt. land with a Tape. A6, A8 and A20 drilled the Govt. land by Compressor. A23 filled the drilled hole with explosive substances to blast the Govt. land. A9, A16 and A21 tied the granite blocks by using ropes. A15, A18 & A20 using Crane lifted the granite blocks from the Govt. land. A17 and A19 drove the granite loaded lorry to their destination. A10, A13 ordered the other accused to store the granite blocks in the Mayanam Poramboke belonging Scheduled Caste people. Thus, all the other accused abetted the commission of offences under Explosive	Witnesses No.22 to 27 in the Memo of the evidence, namely, 22) Ammasi 23) Nallan 24) Mohandass 25) Karupiah 26) Mari 27) Subramani & Witnesses No.41) N.C.Mohandoss 42) T.Muruganantham . (Officials of Mines & Geology Dept.)	1) Sanction of prosecution by the District Collector, Madurai, under Explosive Substances Act.
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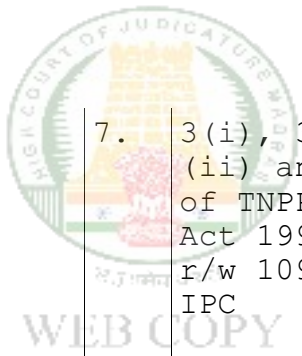
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5.	420, 465, 467, 468, 471 IPC	14.07.01 & 17.02.01	The first accused M.R. Granites is a Partnership firm in which A2 Rabeek Raja and A22 Senthil Kumar are partners as per partnership deed dated 11.12.99. A3 to A14 are close relatives of A2, looking after the business of the firm. A1 to A14 & A22 committed theft of granite blocks by executing a false sworn affidavit dated 17.02.01 stating that he won't quarry in the Govt. land and induced the District Collector, Madurai, to execute a false lease deed dated 14.07.01. Thus, A1 to A14 and A22 used the false document as genuine and wrongfully gaining themselves causing wrongful loss to the Govt. to the tune of 97.27 Crores.	Witness No.40 in the Memo of the evidence. Tr.Arumuga Nainar, AD, Mines, Madurai District	1) Lease Agreement entered between the lessee dated 14.07.2001. 2) Sworn affidavit of the accused dated 17.02.2001.
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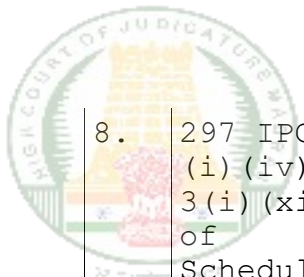


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6.	304(ii) r/w. 511 & 109 IPC	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	A1 to A14 and A22 abetted A15 to A21 to quarry the leasehold and non- leasehold land and A15 to A21 without leaving safety distance of 50 meters and without fencing the leasehold quarry area excavated deep pit by trespassing into the Govt. Poramboke land with the knowledge that it may cause death who passed through the Poramboke land	Witnesses No.22 to 27 in the Memo of the evidence, Eye witnesses, namely, 22)Ammasi 23)Nallan 24)Mohandass 25)Karupiah 26)Mari 27)Subramani 39) Arumugam (Photographer) 66)Venugopal (Inspr. of Police, DCRB)	1) Lease Agreement entered between the lessee dated 14.07.2001. 2) Photographs
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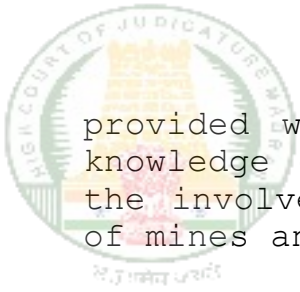


7.	3(i), 3 (ii) and 4 of TNPPDL Act 1992 r/w 109 IPC	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	In order to commit damage to the Govt. land Poramboke and diminution the supply of water A2, A4, A5 and A22 removed top soil. A7 and A19 transported the top soil. A10 to A14 marked the Govt. land with a Tape. A6, A8 & A20 drilled the Govt. land by Compressor. A23 used explosive substances to blast the Govt. land. A9, A16 and A21 tied the granite blocks by using ropes. A15, A18 & A20 using Crane lifted the granite blocks from the Govt. land. A7 and A19 drove the granite loaded lorry to their destination. A10, A13 ordered the other accused to store the granite blocks in the Mayanam Poramboke belonging Scheduled caste people. Thus all the accused abetted the commission of offences, caused damages by	Witnesses in the Memo of the evidence, namely, 22) Ammasi 23) Nallan 24) Mohandass 25) Karupiah 26) Mari 27) Subramani & Witnesses No. 55) Pitchai (BDO) 56) Suganya (Asst. Eng)	1) Evaluation Report dated 23.11.2012 2) Damage Certificate dated 08.01.14.
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8.	297 IPC, 3 (i)(iv) & 3(i)(xiv) of Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 r/w.109 and 114 IPC	From 10.00 a.m. of January 2010 after 2 days of Pongal festival till 2012	A1 to A14 and A22 abetted A15 to A21 to store the illegally quarried granite blocks in S.F.No.250/1 which was exclusively allotted by the Govt. as Mayanam Poramboke to be used by Scheduled Caste People and A15 to A21 stored the granite blocks in the above said land.	Witnesses in the Memo of the evidence, namely, 28) Karupiah 29) Valamalai 30) Sathish 31) Alagu 32) Arjunan 33) Ayyanar 34) Arumugam They are all Scheduled Caste People had spoken to the occurrence along with eye witnesses 22 to 27.	1) A - Register 2) Adangal 3) Tahsildar Certificate, dated 27.02.2013 4) Inspection Report of Tahsildar, Melur, 23.02.2013. 5) 164 Cr.P.C. statements of witnesses 33) Ayyanar 34) Arumugam
9.	120-B IPC, r/w.147, 420, 477, 434, 465, 467, 468, 471, 304 (ii) r/w.511, 109, 114, 297 IPC, u/s.3(i) and 3(ii) and 4 TNPPDL Act and 3(a), 4(a) and 6 of Explosives Substances Act, 1908 and Sec. 3 (i)(iv) and 3(i)(xiv) of SC/ST (POA) Act, 1989	From 2001 to July 2012	Conspiracy hatched in secrecy and in pursuance of said conspiracy all the offences committed by the accused.	Witnesses in the Memo of the evidence, namely, 22) Ammasi 23) Nallan 24) Mohandass 25) Karupiah 26) Mari 27) Subramani	164 Cr.P.C. statements of witnesses 33) Ayyanar 34) Arumugam

11. A perusal of the records indicates that it is not the case, which warrants interference to quash the final report by invoking the power under Section 482 of Cr.P.C. There is substantial material collected by the prosecution, which are incriminating in nature, placed before the Court. The Income Tax Returns, Evaluation Committee's Special Report, the statement of A2 - Rabeek Raja has



provided wealth of information, which are exclusively within the knowledge of the accused. These materials are sufficient to show the involvement of the petitioners in the crime of illegal extract of mines and minerals from the Government land.

12. As a result, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (CS-I)

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/ /2022

Sub Assistant Registrar(CS)

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To

- 1.The Judicial Magistrate,
Melur.
2. The Inspector of Police,
Keelavalavu Police Station,
Melur, Madurai District.
- 3.The Village Administrative Officer,
Keelavalavu,
Melur Taluk,
Madurai District.
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.OP (MD)No.12136 of 2017
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