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Crl.O.P.No.15660 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 30.06.2023

CORAM :

THE HONOURABLE Mr. JUSTICE **SUNDER MOHAN**

Crl.O.P.No.15660, 15715 & 15835 of 2021

and

Crl.M.P.Nos.8536, 8537, 8553, 8555, 8634 & 8637 of 2021

Crl.O.P.No.15660 of 2021

1.M/s.Hindustan Motors Finance
Corporation Private Limited,
Rep., by its Managing Director,
“BIRLA BUILDING”
14th Floor, 9/1 R N Mukherjee Road,
Kolkata, West Bengal-700 001.

2.Mr.Uttam Bose
Managing Director,
M/s.Hindustan Motors Finance
Corporation Private Limited,
“BIRLA BUILDING”
14th Floor, 9/1 R N Mukherjee Road,
Kolkata, West Bengal-700 001.

.. Petitioners

Vs.

Voice of Nature
Rep.,by its President
Mr.R.Gokulraj
No.4, Adhigathur Road,
Vengathurkandigai
Manavalanagar, Tiruvallur-602 002.

..Respondent



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Crl.O.P.No.15715 of 2021

M/s.PCA Authomobiles India Private Limited,
Rep by its Managing Director,
S.F.No.263, 266 to 288, Adhigathur Village,
Thiruvallur Taluk, Thiruvallur District.

.. Petitioner

Vs.

Voice of Nature
Rep.,by its President
Mr.R.Gokulraj
No.4, Adhigathur Road,
Vengathurkandigai
Manavalanagar, Tiruvallur-602 002.

..Respondent

Crl.O.P.No.15835 of 2021

1.Mr.Murali Raj Kalyanarajan
Senior Director (Manufacturing)
M/s.PCA Authomobiles India Private Limited,
World Trade Centre, I Floor,
Holliday in Campus,
Rajiv Gandhi Salai, OMR,
Thiruvananthapuram,
Chennai-600 041.

2.Mr.T.Anthony Dass,
H.R.Manager-General
M/s.PCA Authomobiles India Private Limited,
World Trade Centre, I Floor,
Holliday in Campus,
Rajiv Gandhi Salai, OMR,
Thiruvananthapuram,
Chennai-600 041.

.. Petitioners

Vs.



Crl.O.P.No.15660 of 2021

Voice of Nature
Rep., by its President
Mr.R.Gokulraj
No.4, Adhigathur Road,
Vengathurkandigai
Manavalanagar, Tiruvallur-602 002.

..Respondent

COMMON PRAYER : Criminal Original Petitions have been filed under sections 482 of Criminal Procedure Code to call for the records in C.C.No.125 of 2021 pending before the learned Judicial Magistrate-II, Tiruvallur and quash the same.

For Petitioners : Mr.Abdul Saleem, Senior counsel
in all Crl.O.Ps for M/s.N.Nazid Ahmed

For Respondent
in all Crl.O.Ps : Mr.A.Yogeswaran

COMMON ORDER

These Criminal Original Petitions are to quash the complaint filed by the respondent for the alleged offence under Section 15 of the Environment Protection Act.

2. It is alleged in the complaint broadly that the petitioners had stored hazardous wastage for more than 90 days, which is prohibited under the Rules over Hazardous and other Wastes (Management and Transbound Movement) Rules, 2016; that the petitioners had transported



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the waste and disposed it through persons who were not authorised by the Tamil Nadu Pollution Control Board.

3. Mr.Abdul Saleem, learned Senior Counsel appearing for the petitioners would submit that the petitioner in Crl.O.P.No.15715 of 2021 took over the management of the company by the name M/s.Hindustan Motors Financial Corporation Private Limited in July 2019. The allegations is that he had transported and disposed of it in August 2019. Therefore, the petitioner cannot be liable for the alleged violations.

4. The learned Senior Counsel has also pointed out to an order of the Appellate authority, the Tamil Nadu Pollution Control Board dated 04.11.2022, which was passed in an appeal challenging the directions issued to the petitioners to pay compensation to the Tamil Nadu Pollution Control Board. In the said order, the appellate authority found that the violations alleged against the petitioners with regard to disposal of the waste was factually unsustainable. The learned Senior counsel therefore, submitted that the petitioners cannot be prosecuted for storage, transport or for disposal in view of the above findings of the tribunal.



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5. The learned counsel for the respondent per contra, submitted that the appellate authority dealt only with the disposal of Electrophoretic Deposition (ED) waste. The complaint relates to three violations namely storage beyond the prescribed period, transportation and disposal through unauthorised persons. Therefore, the complaint cannot be split and it is for the petitioners to prove before the trial Court that they are not liable for the alleged violations.

6. This Court, on perusal of the complaint and on hearing the submissions made by the learned counsel on either side, finds that the question as to whether the petitioners are liable for storage beyond the prescribed period in view of the fact that they took over the company only in July 2019 is a matter which has to be adjudicated before the trial Court. In the instant case, it is found that the previous management is also an accused. Therefore, it is for the trial Court to consider whether the petitioners are guilty of the said violations with regard to storage.

7. As regards the disposal part, it is seen that, the Appellate authority had held that the said allegation cannot be sustained. However,



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the complaint alleges that the transportation has been done in violations of the rules through unauthorised persons. This also has to be adjudicated by the trial Court.

8. Therefore, this Court is of the view that the impugned complaint cannot be quashed. However, the appearance of the petitioners in Crl.O.P.Nos.15835 & 15660 of 2021 is dispensed with, unless, the learned Magistrate considers their presence necessary for the progress of the trial.

9. In view of above, this Criminal Original Petitions stand dismissed. Consequently, the connected Criminal Miscellaneous Petitions are closed.

30.06.2023

Internet : Yes/No

Index: Yes/No

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To

The Judicial Magistrate-II, Tiruvallur.



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SUNDER MOHAN, J.



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