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Crl.O.P No.25025 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **24.01.2023**

CORAM:

THE HONOURABLE Ms. JUSTICE R.N.MANJULA

Crl.O.P No.25025 of 2021
and Crl.M.P. No.13773 of 2021

1. Karunakaran
2. Thiruppathi

... Petitioners

Vs.

1. The State represented by
Inspector of Police,
Veppanapalli Police Station,
Krishnagiri.
Cr. No.155 of 2021

2. Jeeva

... Respondents

Criminal Original Petition is filed under Section 482 of Criminal Procedure Code, to quash the first information report in Crime No.155 of 2021 on the file of the first respondent police as the same is an abuse of process of law.

For Petitioners : Mr.S.Karthikeyan
for Mr.M.Ravi

For Respondent-1 : Mr. A.Gopinath
Government Advocate (Crl.side)



ORDER

WEB COPY This Criminal Original Petition has been filed to call for the records and quash the first information report in Crime No.155 of 2021 on the file of the first respondent police as the same is an abuse of process of law.

2. The petitioners are the accused 1 and 2 respectively who have been charged for the offence under Section 379 IPC on the allegation that on 25.08.2021 at about 7.00 a.m. the second respondent who is the Village Administrative Officer of V.Madhepalli Village had seen the petitioners driving a JCB bearing Reg.No.TN-24-AT-4690 and lorry bearing Reg.No.TN-30-BK-1938 and on seeing the second respondent, they have abandoned their respective vehicle and ran away from the place. When the vehicles were inspected it was found that the said vehicles contained three units of sand. Since the said vehicles have been driven by the petitioners, a case has been registered against the petitioners for the offence under Section 379 IPC.

3. The learned counsel for the petitioners submitted that though the second respondent had given a false complaint by alleging that the sand was



stolen from a private land, the complaint was not given by the land owner by alleging that the petitioners have taken sand from his land without his permission and by violating the mandates of getting license; the respondent police had not invoked any penal provision for the alleged violation of theft of Mines and Minerals and have registered a FIR under Section 379 IPC alone; since the second respondent is not a competent person who can give a complaint that there was sand theft, the FIR is liable to be quashed.

4. The learned Government Advocate (Crl.side) submitted that anyone can set the law in motion; just because the charges were not properly mentioned, the accused cannot get a ground for quashing the complaint; even if the sand is taken from the patta land, the concerned should get proper license; since the petitioners have lifted the sand without licence they are liable to face the criminal case.

5. Obviously the second respondent is a Village Administrative Officer who had visited the place of occurrence on the information that someone was illegally taking sand from someone's private land. The second respondent stated that when he was about to come to the place of



occurrence, he had seen the petitioners driving the JCB and Lorry. Though it is stated that the sand was stolen from the land, the respective land owner did not chose to give any complaint. The complaint has specifically stated that the sand has been taken in violation of the rules. Even if the land was a patta land, it is obligatory on the part of the petitioners to get due permissions. Even though such ingredients have been stated in the complaint, the case has been registered only for the offence under section 379 IPC. However, the charges can be altered at any point of time in case the materials collected during investigation reveal the commission of some more offences.

6. But here is a case where the second respondent himself had stated that the petitioners were taking sand from a patta land without permission. Even to allege that the sand was stolen from someone's land and make it a complaint, it should originate from the owner. But it did not happen in this case. Under such circumstances, it is unnecessary to allow the investigation to go on. Since the very land owner had not chosen to give any complaint on the allegation that the petitioner had stolen the sand from his land, the second respondent should not presume by himself that the petitioners have



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taken the sand from someone's land, without permission.

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7. In view of the above stated reasons, this Criminal Original Petition is allowed and the FIR in Cr. No.155 of 2021 on the file of the first respondent is quashed. Connected miscellaneous petition is closed.

24.01.2023

Index : Yes/No
Speaking Order : Yes / No
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R.N.MANJULA, J.,

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To:

1. The Inspector of Police,
Veppanapalli Police Station,
Krishnagiri.
2. The Public Prosecutor,
High Court, Madras.

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