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Crl.O.P.No.25717 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.25717 of 2022

&

Crl.M.P.No.16398 of 2022

1.K.R.Parthasarathy
2.V.Shiyam

... Petitioners

Vs.

1.State by
Inspector of Police,
B3- Kanchi Taluk Police Station,
Kanchipuram.
(Crime No.474 of 2022)

2.Special Deputy Tahsildar,
Department of Geology and Mines,
Near to RDO office,
Collectorate,
Kanchipuram.

... Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records relating to the case in Crime No.474 of 2022 dated 27.05.2022 filed under sections 379 of Indian Penal Code, 1860 and 21(1) of Mines & Minerals (Development & Regulation) Act, 1957 on the file of the 1st respondent police and quash the same and to order or direct the 1st respondent police to return the TN 18 S 7074 EICHER vehicle to the 1st



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petitioner.

For Petitioners : Mr.Thiyagarajan.G

For Respondents : Mr.S.Santhosh
Government Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed to call for the records relating to the case in Crime No.474 of 2022 dated 27.05.2022 filed under Sections 379 of Indian Penal Code, 1860 and 21(1) of Mines & Minerals (Development & Regulation) Act, 1957 on the file of the 1st respondent police and to quash the same and to order or direct the 1st respondent police to return the TN 18 S 7074 EICHER vehicle to the 1st petitioner.

2. Learned counsel for the petitioners submitted that 1st petitioner is the owner of the lorry bearing No.TN 18 S 7074 and 2nd petitioner is the driver of this lorry. 1st respondent registered a case against the petitioners in Crime No.474 of 2022 for the offences under Sections 379 of Indian Penal Code, 1860 and 21(1) of Mines & Minerals (Development & Regulation) Act, 1957 alleging that petitioners had transferred one unit of gravel sand without any license on 27.05.2022. When the lorry was intercepted, at about 6.40 p.m. on 27.05.2022 near Vippedu Sevilimedu – Venkatapuram road, 2nd petitioner



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stopped the lorry and escaped. It is the further submission of the learned counsel for the petitioners that allegations made in the First Information Report against the petitioners are not true. One Lokesh was granted license for mining of gravel sand in Survey No.187/3 to an extent of 1.43.0 Hectares in Kundayanthandalam Village. 1st petitioner purchased gravel sand from Lokesh and transported the gravel sand with the permission issued by the authorities. Thus, prosecution of the petitioners is not legal. Therefore, this petition.

3. When the matter came up for hearing on 09.01.2023, this Court directed the learned Government Advocate (Crl.side) to verify the permission which was produced by the petitioners, as to its genuineness.

4. When the matter came up today, learned Government Advocate (Crl.side) produced a copy of the letter received from the Deputy Director of Geological and Mines in Thiruvannamalai stating that the permission issued to Lokesh is a genuine permission.

5. Considered the rival submission and perused the records. As indicated earlier, 1st petitioner is the owner of the lorry bearing No. TN 18 S 7074 and 2nd petitioner is the driver. They are being prosecuted for the offences under Sections 379 of Indian Penal Code, 1860 and 21(1) of Mines



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& Minerals (Development & Regulation) Act, 1957. The allegations is that there was no proper permit for transporting the gravel sand. Now, from the permission produced, it is clear that the gravel sand was legally transported through the lorry bearing No. TN 18 S 7074 on 27.05.2022 by its driver 2nd petitioner. Therefore, this Court finds that there is no basis for prosecuting petitioners for the offences under Sections 379 of Indian Penal Code, 1860 and 21(1) of Mines & Minerals (Development & Regulation) Act, 1957. Continuation of proceedings in Crime No.474 of 2022 on the file of the 1st respondent would be an abuse of process of law of the Court and injustice and harassment to the petitioners.

6. In this view of the matter, this Criminal Original petition is allowed, proceedings against the petitioners in Crime No.474 of 2022 on the file of the 1st respondent is quashed and the vehicle bearing No. TN 18 S 7074 is ordered to be returned to the petitioners, if it is not required in any other case. Consequently, connected miscellaneous petition is closed.

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Internet: Yes
Index: Yes/No

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To:

- 1.The Inspector of Police,
B3- Kanchi Taluk Police Station,
Kanchipuram.
(Crime No.474 of 2022)
- 2.The Special Deputy Tahsildar,
Department of Geology and Mines,
Near to RDO office,
Collectorate,
Kanchipuram.
- 3.The Public Prosecutor,
High Court of Madras.



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G.CHANDRASEKHARAN, J.
mpl

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