



1

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/06/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGO VAN**

Cr1.OP(MD)No.4970 of 2023
and
Cr1.MP(MD)No.4390 of 2023

Raja @ Subramanian : Petitioner/A3

Vs.

1.The Inspector of Police,
Alwarthirunagari Police Station,
Thoothukudi District. : R1/Complainant

2.Durairaj Pandian,
Special Sub-Inspector of Police-596,
Alwarthirunagari Police Station,
Thoothukudi District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records of the impugned FIR in Crime No.111 of 2022 on the file of the 1st respondent and quash the same as illegal in so far the petitioner and pass further or other orders.

For Petitioner : Mr.V.Angusamy

For 1st Respondent : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

**ORDER**

WEB COPY

This criminal original petition has been filed seeking quashment of the FIR in Crime No.111 of 2022 on the file of the 1st respondent.

2. The case of the prosecution in brief:-

On 28/11/2002 at about 01.30 am, the de-facto complainant's police party were on their routine patrol duty, at that time, they found a two wheeler bearing registration No.TN-72-CX-7806. On seeing the police party, the occupants of the vehicle tried to flee away from that place. The police party chased them and apprehended near VP Water Service at Pooraiyur. On enquiry, they disclosed their names as Raj @ Balasubramanian, Muthukumar and Muthusiva. They disclosed that one Lakshmanan and his brother Muthukumar illegally committed sand mining in Tamiravarani river and transporting the same through Swaraj Mazda Van bearing registration No.TN-75-B-8544 and these persons were standing as guard to watch the movement of the police for facilitating easy transportation of the sand. They also informed that the above said vehicle will pass through



kadayanodai to Sathankulam. Along with the above said persons, the police team waiting near Athurangal Vaikal Palam. At about 05.00 am, they found a Swaraj Mazda Van bearing registration No.TN-75-B-8544 loaded with sand. On seeing the police party, the driver and other occupants escaped from that place. On search, they found one unit of river sand in the vehicle. On further enquiry, these persons disclosed that those persons, who escaped from that place, were one Laxmanan and his brother Muthukumar. On the basis of the above said occurrence, both the vehicles have been seized and were produced to the police and FIR was registered in Crime No.111 of 2022 for the offences under sections 379, 109 IPC and section 21(1) of the Mines and Minerals (Development and Regulation) Act.

3.Now seeking quashment of the same, this petition has been filed by A3 namely Raj @ Subramanian on the ground that on the alleged date of occurrence, he was working as water serviceman in a water service station; The CCTV footage, which is available in that area will show that he was not present in the place of occurrence and was arrested somewhere else.



4. Heard both sides.

WEB COPY

5. As mentioned above, plea of alibi has been raised by the petitioner stating that he was working in a car water service station. Whether the CCTV footage available, which would show that he was present in the place of occurrence, the time mentioned by the prosecution. So the question, which arises for consideration is whether this plea of alibi can be taken into account at this stage. That cannot be a matter for consideration by this court in the absence of any material, which is of unimpeachable quality. Absolutely, no material has been placed before this court, which is having such nature of character.

6. In the FIR, the name of the petitioner has been clearly stated and he along with others also apprehended and brought to the police station by the police. I find no reason to interfere into the process of trial. The petitioner can very well participate in the investigation process and inform the Investigating Officer as to the availability of the CCTV footage. But without any proper material, this petition has been filed.



7.Perusal of the CD file also shows that major portion of the investigation is also over. A point that has been raised by the petitioner is also to be verified by the petitioner before filing the final report. So, only this direction can be issued to this petitioner and no further order is available to the petitioner.

8.In the result, this criminal original petition is **dismissed**, of course, with the above said direction to the Investigating Officer. Let the investigation process completed within a period of three months from the date of receipt of a copy of this order. If the petitioner is aggrieved over the contents, he can work out his remedy through appropriate proceedings. Consequently, connected Miscellaneous Petition is closed.

06/06/2023

Index:Yes/No
Internet:Yes/No

er



6

To,

WEB COPY

- 1.The Inspector of Police,
Alwarthirunagari Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



7

G.ILANGOVAN, J

er

Cr1.OP(MD)No.4970 of 2023

06/06/2023