



WEB COPY

CrI.O.P.(MD)No.14915 of 2021



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 21.03.2023

Delivered on : **02.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

CrI.O.P.(MD) No.14915 of 2021

and

CrI.M.P.(MD)No.7954 of 2021

1.Arumugam

2.Perumal

3.Kannan

... Petitioners /Accused Nos.1,2 & 4

Vs.

Radhamagesh,

Inspector of Police,

Vadipatti Police Station,

Madurai

... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the entire records in Spl.S.C.No.56 of 2021 on the file of the Judge, Special Court, to deal with the Cases of Offences in Contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai and to quash the same against the petitioners as illegal.

For Petitioners : Mr.P.Ganapathi Subramanian

For Respondent : Mrs.Radha Magesh, Inspector of Police
(Party-in-person)



ORDER

This petition is filed to quash the proceedings in Spl. S.C. No. 56 of 2021 on the file of the Judge, Special Court, to deal with the Cases of Offences in Contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai.

2. The allegation against the petitioner is that the respondent filed a private complaint under Section 200 Cr.P.C along with a final report submitted by the inspector of police, Vadipatti, in Crime No.1858 of 2020, under Section 379 of I.P.C and Section 21(5) of Mines and Minerals (Development & Regulation) Act and the case was taken on file as Spl.S.C.No.56 of 2021 on the file of the Special Court, Madurai.

3.The case of the prosecution is that a vehicle bearing Registration No.TN-64-L-7607 and another vehicle bearing Registration No.TN-58-AT-5446, tipper lorries were used to load savudu sand with the help of HITACHI vehicle, without any proper permission and both the drivers of the tipper lorries and the driver of the HITACHI vehicle were arrested on 06.10.2020 at about 16.15 hours. Both the tipper lorries contained 5 Units of sand and a case was registered and the vehicles were seized.



4. 1. The case of the petitioner is that the ingredients of Section 379 of I.P.C and under Section 21(5) of Mines and Minerals (Development & Regulation) Act was not attracted in this case. The petitioners 1 and 2 are the drivers of the tipper lorries and the third petitioner is the owner of K.R. Constructions. He was permitted to carry out construction work and only based on the licence, he has taken savadu sand near Andipatty- Katchaikatty road. It was the National Highways Authority of India (NHAI), who gave the contract to M/s.N.C.C. Limited, Hyderabad for formation of four lane road from Vadipatty to Thamaraipatty Madurai ring road.

4.2. It is further stated that the third petitioner is a Class-I Contractor and he is an income tax assessee and that the Thasildar, Vadipatty has also sent a letter in Na.Ka.No.A2/489/2020, dated 19.10.2020 to M/s. N.C.C. Limited, with regard to the nature of the soil, which was used for construction of four way lane and that the petitioner used the gravel sand as per the agreement for the purpose of levelling the road, which is a part of the Contract. On 16.10.2020, NHAI sent a letter to the Superintendent of Police that NHAI has issued contract to M/s.N.C.C. Limited and as such, on 06.10.2020 excavation work was undertaken, as per the agreement and the excavated sand was transported to the Chainage of



0+700 to 0+800 and the police officials have seized two tipper lorries and the labourers have been arrested and were remanded to judicial custody.

Even after the letter, the respondent police failed to enquire the officials of NHAI and that the respondent failed to consider the same before filing the final report and prayed the case to be quashed.

5. On the side of the respondent, it is stated that at the time of occurrence, the petitioners failed to show any permit and hence, the case was registered.

6. It is seen that at the time of occurrence, the petitioners failed to produce relevant documents before the police. It is the duty of the petitioners to produce those documents as and when required by the police officials. The letter sent by the NHAI to the Superintendent of Police, Madurai and the letter from M/s.N.C.C. Limited, reveals that excavation work was entrusted with M/s.N.C.C. Limited. The Thasildar has stated that the road work was going on in the occurrence place and the nature of soil is gravel. Where from the sand was excavated was not specifically mentioned in the complaint.



7. The third petitioner is a Contractor engaged by NHAI and NHAI has addressed the police officials supporting the petitioners. Considering the documents filed on the side of the petitioner, it is decided that the ingredients of Section 379 of I.P.C and Section 21(5) of Mines and Minerals (Development and Regulation) Act are not attracted and hence, the proceedings in Spl. S.C. No.56 of 2021 on the file of the Judge, Special Court, Madurai, is liable to be quashed.

8. This Petition is allowed and the proceedings against the petitioners in Spl. S.C. No.56 of 2021 on the file of the Judge, Special Court, to deal with the Cases of Offences in Contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
Ls

02.06.2023

To

1. The Judge, Special Court, to deal with the Cases of Offences in Contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai.



WEB COPY

Crl.O.P.(MD)No.14915 of 2021



R.THARANI. J.

Ls

2.Radhamagesh,
Inspector of Police,
Vadipatti Police Station,
Madurai

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-delivery order made in
Crl.O.P.(MD)No.14915 of 2021

02.06.2023