



Crl.O.P.(MD)No.14762 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Reserved on	11.09.2023
Delivered on	29.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.14762 of 2023
and Crl.M.P.(MD) Nos.11663 and 11665 of 2023

1.Gnanapoominathan @ Gnanaboominathan
2.Raja

... Petitioners/
Accused 2 & 3

Vs.

1. The Inspector of Police,
Ettaiyapuram Police Station,
Tuticorin District.
(Crime No.313 of 2021)

... 1st Respondent/
Complainant

2. Village Administrative Officer
Ettaiyapuram,
Incharge of Navalakkampatti Village,
Ettaiyapuram Taluk,
Tuticorin District.

... 2nd Respondent /
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the entire records relating to the



Crl.O.P.(MD)No.14762 of 2023

Charge sheet in C.C.No.258 of 2023 on the file of learned Judicial Magistrate No.II, Kovilpatti and quash the same.

For Petitioners : Mr.M.Subash Babu
for M/s.Subash Law Office

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor

ORDER

This petition is filed seeking quashment of C.C.No.258 of 2023 pending on the file of learned Judicial Magistrate No.II, Kovilpatti registered against the petitioners/A2 and A3 for the offences under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957.

2. The facts in brief as gathered from the record are that on 07.09.2021 at about 11.30 a.m., while the defacto complainant/Village Administrative Officer along with his assistant and two police officers were in vehicle checkup at Navalakkampatti pond road, found a Tipper Lorry bearing registration No.TN-60-AZ-1762 coming from north side to south side. The said lorry was stopped by them and on search, they found

02/8



Crl.O.P.(MD)No.14762 of 2023

that the said lorry was loaded with three units of gravel sand and that accused No.1, who is the driver of the vehicle confessed that he is working as driver with the first petitioner/A2 who is running quarry in the name of ABC quarry at Malaipatti road. Further, there was no permit with A1 for transporting gravel sand and he is permitted only to transport Kundukal/Jalli. Thereby a case has been registered in respect of the said incident on 07.09.2021 in Crime No.313 of 2021 for the offences under Sections 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, against the petitioners herein and on completion of investigation, charge sheet is filed in C.C.No.258 of 2023 by learned Judicial Magistrate No.II, Kovilpatti and the same is challenged before this Court.

3. It is submitted by learned counsel for the petitioners/A2 & A3 that the petitioner/A2 has running the quarry by obtaining valid permission given by the competent authority and that he is falsely implicated as one of the accused and hence sought for quashment of FIR. It is submitted that the 2nd petitioner/A3 is the owner of the tipper lorry being registration No.TN-60-AZ-1762 and he is no way connected to the



Crl.O.P.(MD)No.14762 of 2023

alleged offence.

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4. Learned Additional Public Prosecutor submits that the petitioners/A2 & A3 has got a permit only to transport Kundukal/Jalli but not the gravel sand and therefore, sought for dismissal of this petition.

5. Heard both sides and perused the record.

6. The petitioners/A2 & A3 filed proceedings of the District Collector, Tuticorin in R.C.No.G.M.255/G&M/2018 dated 07.05.2020 which go to show that the petitioner/A2 is permitted to take up mining in his patta land in Survey Nos.178/3A, 178/3B, 178/4A, 178/4B and 178/4C admeasuring to an extent of 2.11.5 hectares at Meenatchipuram Village, Ettaiyapuram Taluk, Tuticorin District for a period of five years.

7. Learned Additional Public Prosecutor contended that the petitioner/A2 is having permit only to take the rough stone from his patta land. The licence which is filed before this Court would go to show that the 1st petitioner/A2 given permission to take gravel as well as rough



Crl.O.P.(MD)No.14762 of 2023

stone from his patta land. There is no dispute that the gravel was being taken from the land belonging to the petitioner No.1/A2 in fact, the second respondent/defacto complainant has stopped the vehicle belonging to 2nd petitioner/A3 while it was coming out from the quarry which is the patta land belonging to the petitioner No.1/A2. Therefore, on perusal of the licence, the petitioner/A2 is permitted to do the quarry activities in his patta land not only to take rough stone but also the gravel. According to the respondent police, petitioner No.2/A3 was transporting the gravel from the patta land of the petitioner/A2. Once gravel is being transported from the patta land of the petitioner/A2 basing on the proceedings of the District Collector which was in force on the date of the alleged incident the police should not have registered any case against the petitioners/A2 & A3.

8. Further, even otherwise, the petitioners/A2 & A3 were admittedly not present in the scene of occurrence, it is accused No.1 who was driving three units of gravel in Tipper Lorry bearing registration No.TN-60-AZ-1762. When the petitioners/A2& A3 were not at all present in the scene of occurrence and even if the act of accused No.1 in



Crl.O.P.(MD)No.14762 of 2023

taking the gravel in the tipper lorry amounts to an offence, even then the petitioners/A2 & A3 cannot be connected to it as there is no record to connect the petitioners/A2 & A3.

9. Apart from the offence under Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, the petitioners/A2 & A3 were also charged under Section 379 of IPC. It is the case of the prosecution that on 07.09.2021 at about 11.30 a.m., the petitioners were committed theft of gravel in tipper lorry bearing registration No.TN-60-AZ-1762. It is surprise to note that even as per the District Collector proceedings, the petitioner No.1/A2 is the owner of the land bearing Survey Nos.178/3A, 178/3B, 178/4A, 178/4B and 178/4C admeasuring to an extent of 2.11.5 hectares at Meenatchipuram Village, Ettaiyapuram Taluk, Tuticorin District and he was permitted to carry out the quarry work in respect of rough stone and gravel. As per the licence granted by the District Collector for transporting gravel sand, the petitioner No.1/A2 has paid Rs.9,900/- to the Department of Geology and Mines for 50 trips and he has paid a sum of Rs.17,700/- to the Department of Geology and Mines for transporting rough stone and gravel.



Crl.O.P.(MD)No.14762 of 2023

WEB COPY

10. In the result, this criminal original petition is allowed and the proceedings in C.C.No. 258 of 2023 on the file of learned Judicial Magistrate No.II, Kovilpatti, are hereby quashed. Consequently, the connected miscellaneous petitions are closed.

29.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

1. The Inspector of Police,
Ettaiyapuram Police Station,
Tuticorin District.
2. Village Administrative Officer
Ettaiyapuram,
Incharge of Navalakkampatti Village,
Ettaiyapuram Taluk,
Tuticorin District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.O.P.(MD)No.14762 of 2023

DR.D.NAGARJUN,J

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Crl.O.P.(MD)No.14762 of 2023

Dated: 29.09.2023