



CRL.OP(MD)No.18716 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

|                      |                   |
|----------------------|-------------------|
| <b>Reserved on</b>   | <b>29.09.2023</b> |
| <b>Pronounced on</b> | <b>23.11.2023</b> |

CORAM

**THE HONOURABLE MR. JUSTICE P.DHANABAL**

CRL.OP(MD)No.18716 of 2021

and

CrI.MP(MD)No.10368 of 2021

1.S.Sithiah

2.S.Kala

... Petitioners

Versus

1.The State represented by  
The Inspector of Police,  
CSCID, Virudhunagar,  
Madurai District.  
(Crime No.152 of 2021)

2.Sankarapandiyan,  
Special Tahsildar,  
Flying Squad,  
Tamil Nadu Civil Supplies Corporation,  
Virudhuangar.

... Respondents



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**Prayer** : The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the FIR registered in Crime No.152 of 2021 on the file of the 1<sup>st</sup> Respondent.

For Petitioners : Mr.T.Lenin Kumar

For Respondents : Mr.R.M.Anbunithi  
Additional Public Prosecutor

### **ORDER**

This Criminal Original Petition is filed by the Petitioners to quash the criminal proceedings in Crime No.152 of 2021 on the file of the 1<sup>st</sup> Respondent and pass such further or other orders.

2. According to the Petitioners, on 06.09.2021, the 1<sup>st</sup> Respondent registered a case in Crime No.123 of 2021 as against the Petitioners based on the complaint given by the 2<sup>nd</sup> Respondent and the same is pending. Thereafter, on 07.09.2021, stock verification was undertaken but the stock available in the storage bin was not unloaded since labours were not available hence they approximately estimated as 25 bags available in the storage bin. However, on 21.09.2021, when the Quality Inspector came to the Mill for verification and taking back the stock, the rice in the storage bin



was unloaded and found that totally 128 bags were available. In fact, they alleged that these 128 bags are shortage and an action was also initiated stating the shortage of stock. But on finding the availability of the stock, the Quality Inspector got surprised and he informed that the stock as per the earlier verification dated 07.09.2021 alone could be removed and the rest of the stock could be removed only after obtaining orders from the Superior.

3. But despite repeated requests, they did not take back the available stock. Hence, the 1<sup>st</sup> Petitioner approached the office of the Regional Manager, Tamil Nadu Civil Supplies Corporation, Virudhunagar and requested to take back the stock. In turn he asked to give it in writing and the 1<sup>st</sup> Petitioner also given a written representation dated 20.10.2021 but no acknowledgment was given. Hence, the 1<sup>st</sup> Petitioner sent the representation to the Managing Director on 21.10.2021 through registered post.

4. On the same day, at about 8.15 p.m., the 2<sup>nd</sup> Respondent called the 1<sup>st</sup> Petitioner over phone and asked about the representation sent



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to the Managing Director and also asked to send the same to him.

Accordingly, the 1<sup>st</sup> Petitioner gave the copy of representation to him at about 9.00 p.m. to 9.15 p.m. through Whatsapp. After getting all these, without taking back the goods, the next day i.e., on 23.10.2021, the 2<sup>nd</sup> Respondent came to the Rice Mill and when the Petitioners were not available, they had taken all the 103 rice bags. However, he had counted only 101 rice bags and registered the case in Crime No.152 of 2021 for the offence under Section 6(4) of Tamil Nadu Scheduled Commodities [RDSCS] Order, 1982 read with 7(1)(a)(ii) of Essential Commodities Act, 1955.

5. The 2<sup>nd</sup> Respondent along with his office staffs went to the Rice Mill on 22.10.2021 and they were there between 6.45 a.m. to 8.00 a.m. after receipt of the representation dated 20.10.2021 by the Regional Manager, they filed the complaint. Therefore, the registration of FIR is clear abuse of process of law.

6. No counter was filed by the Respondents.

7. The learned counsel appearing for the Petitioners would



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contend that already a FIR in Crime No.123 of 2021 was registered against them on 06.09.2021 based on the complaint given by the 2<sup>nd</sup> Respondent.

While pending the above said FIR, immediately on 07.09.2021 stock verification was undertaken and in the Rice Mill storage 128 bags were available and the Quality Inspector informed that the stock as per the earlier verification dated 07.09.2021 alone could be removed and the rest of the stock could be removed only after obtaining orders from the Superior. In the mean time, the Petitioners requested the Regional Manager, Tamil Nadu Civil Supplies Corporation, Virudhunagar to take back the stock. Hence, he sent the representation to the Managing Director on 21.10.2021. Thereafter, the copy was also served with the Respondent through Whatsapp as per his request. Thereafter, on 23.10.2021, the 2<sup>nd</sup> Respondent came to the Rice Mill where the Petitioners were absent and they had taken all the 103 rice bags and then registered FIR in Crime No.152 of 2021 for the offence under Section 6(4) of Tamil Nadu Scheduled Commodities [RDCS] Order, 1982 read with 7(1)(a)(ii) of Essential Commodities Act, 1955. The registration of FIR is abuse of process of law. The Petitioners are hulling agents and on the Corporation side, there was shortage of stock. Without properly taking note of the stock available in the storage bin and even after the repeated requests,



they did not come forward to take back the stock. Thereafter only, the Respondent gave the complaint and registered the case. Therefore, the pending proceedings are liable to be quashed.

8. The learned Government Advocate (Criminal Side) appearing for the Respondents would contend that based on the complaint given by the 2<sup>nd</sup> Respondent, the 1<sup>st</sup> Respondent registered the case in Crime No.152 of 2021 for the offences under Section 6(4) of Tamil Nadu Scheduled Commodities [RDSCS] Order, 1982 read with 7(1)(a)(ii) of Essential Commodities Act, 1955 and the same is pending for investigation. The investigation is at initial stage and at this stage, FIR cannot be quashed. The offences are grave in nature and it need elaborate investigation. Therefore, the petition is liable to be dismissed.

9. This Court has heard both sides and perused the records.

10. According to the Petitioners, already a case has been registered against them in Crime No.123 of 2021 and the same is pending. While so, immediately on the next day, again they came to the storage bin



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and inspected the stock and then they verified the stock and the same was not unloaded due to unavailability of labours and they approximately estimated 25 bags are available and thereafter, when the Quality Inspector came to the Mill for verification and for taking back the stock. The rice in the storage bin was unloaded and found that totally 125 bags are available. In fact, they alleged that 128 bags are shortage and action was also initiated for the storage of stock. But surprisingly, the Quality Inspector informed that the stock as per the earlier verification dated 07.09.2021 alone could be removed and the rest of the stock could be removed only after obtaining orders from the Superior.

11. Thereafter, the Petitioner has informed the same to the higher authorities through representation dated 21.10.2021 and then the copy of the representation was served to the 2<sup>nd</sup> Respondent through Whatsapp and immediately they gave the complaint and registered the present case. Therefore, it is abuse of process of law. The contention of the Respondents is that based on the complaint given by the 2<sup>nd</sup> Respondent, the 1<sup>st</sup> Respondent registered the case and now the case is under investigation.



The investigation is at initial stage and at this stage, the case of the Petitioners cannot be quashed and it needs elaborate investigation.

12. This Court has also on careful perusal of doubts they revealed that as per FIR, there are some allegations to constitute the offences and there are no sufficient grounds raised by the Petitioners to quash the FIR and the allegations made against the Petitioners are serious in nature. The grounds raised by the Petitioners was nothing but defense and the same can be agitated before the Trial Court in the event of any positive report filed by the Investigating Officer since the case is under investigation.

13. It is for the 1<sup>st</sup> Respondent to conduct the fair investigation and if the Petitioners have any materials, they can produce the same before the Investigating Officer and the Investigating Officer can peruse the documents and conduct investigation on merits in accordance with law. Therefore, at this stage, the investigation of the 1<sup>st</sup> Respondent cannot be scuttled. It is for the Investigating Officer to find the truth by conducting a fair investigation. After completion of investigation, if any adverse materials available as against the Petitioners, then they can challenge the same in the



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manner known to law but not at this stage.

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14. Therefore, as discussed above, this Court is of the opinion that this petition has no merits and deserved to be dismissed. In the result, this Criminal Original Petition is dismissed. Accordingly, the connected miscellaneous petition is closed.

**23.11.2023**  
(1/2)

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Index:Yes/No  
Speaking Order : Yes/No

**P.DHANABAL., J.**

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To

- 1.The Inspector of Police,  
CSCID, Virudhunagar,  
Madurai District.
- 2.The Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

**PRE- DELIVERY JUDGEMENT MADE IN**

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and

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**23.11.2023**  
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