



Crl.O.P.(MD).No.15639 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.11.2023

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

Crl.O.P.(MD).No.15639 of 2023

Raja

... Petitioner

Vs.

**State rep by
The Inspector of Police,
Musiri Police Station
Trichy District.**

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to direct the Respondent Police to conduct enquiry and complete the investigation and submit the final report the competent Court of Principal District and Sessions Court, Trichy consequently direct the Principal District and Sessions Court, Trichy.

For Petitioners : Mr.R.Maheswaran

**For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate
(Crl.side)**



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ORDER

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This Criminal Original Petition is filed to direct the Respondent Police to conduct enquiry and complete the investigation and submit the final report before the Principal District and Sessions Court, Trichy and to issue a direction.

2. The facts in brief is that the petitioner is the first accused in Crime No.52 of 2022. The offences alleged are under Sections 379 and 21 of Mines and Minerals (Development and Regulations) Act. The defacto complainant is working as a Sub Inspector of Police. He lodged a complaint stating that on the particular date of occurrence, on secret information, they went to the place of occurrence and at that time, they found a JCB bearing registration No.KA 51 MK 2964, loading Savadu sand in a Tipper lorry bearing registration no. TN 48 W 5353. On seeing the police party, except the petitioner, other accused fled away from the place. After completion of the investigation, final report was filed before the learned Principal District Judge, Trichy. But final report was not entertained by the learned Principal District Judge, Trichy, stating that special Court can only entertain the final report. Now the vehicles are



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kept in the custody of the police station without returning the same to the petitioner. On the ground that there is a loss occasioned, they filed this petition seeking direction to the Principal District Judge, Trichy, to entertain the final report.

3. A report is called for from the Principal District Judge, Trichy. As per the directions of this Court, the report was received and it is submitted in the report that final report was not filed so far. Along with the report, it is also submitted in the letter written by the Inspector of Police, Musiri, stating that investigation is not completed and as per the notification issued by the Government in G.O.Ms.No.298 Home (Courts-II) Department, dated 13.06.2019, the Principal District Court, Tiruchirappalli, is designated as Special Court to try the offences under Mines and Minerals (Development and Regulation) Act, 1957.

4. Reading of the report shows that so far no final report is filed. The issue has been clarified by the Hon'ble Supreme Court in the case of ***Pradeep S.Wodeyar Vs. State of Karnataka (2021) 11SCR 985***. The Hon'ble Supreme Court has issued the following guidelines:



"21.1. That the learned Magistrate can in exercise of powers under Section 156(3) of the Code order / direct the In-charge/ SHO of the police station concerned to lodge / register crime case / FIR even for the offences under the MMDR Act and the Rules made thereunder and at this stage the bar Under Section 22 of the MMDR Act shall not be attracted.

21.2. The bar under Section 22 of the MMDR Act shall be attracted only when the learned Magistrate takes cognizance of the offences under the MMDR Act and the Rules made thereunder and orders issuance of process / summons for the offences under the MMDR Act and the Rules made thereunder.

21.3. For commission of offence under Indian Penal Code, on receipt of the police report, the Magistrate having jurisdiction can take cognizance of the said offence without awaiting the receipt of complaint that may be filed by the authorised officer for taking cognizance in respect of violation of various provisions of the MMDR Act and the Rules made thereunder.

21.4. That in respect of violation of various provisions of the MMDR Act and the Rules made thereunder, when a Magistrate passes an order Under Section 156(3) of the Code and directs the In-charge/SHO of the police station concerned to register / lodge the crime case / FIR in respect of the violation of various



provisions of the Act and the Rules made thereunder and thereafter after investigation the In-charge of the police station / investigating officer concerned submits a report, the same can be sent to the Magistrate concerned as well as to the authorised officer concerned as mentioned in Section 22 of the MMDR Act and thereafter the authorised officer concerned may file the complaint before the learned Magistrate along with the report submitted by the investigating officer concerned and thereafter it will be open for the learned Magistrate to take cognizance after following due procedure, issue process / summons in respect of the violation of the various provisions of the MMDR Act and the Rules made thereunder and at the stage it can be said that cognizance has been taken by the learned Magistrate.

21.5. In a case where the violator is permitted to compound the offences on payment of penalty as per Sub-Section (1) of Section 23-A, considering Sub-section(2) of Section 23-A of the MMDR Act, there shall not be any proceedings or further proceedings against the offender in respect of the offences punishable under the MMDR Act or any Rules made thereunder so compounded. However, the bar under Sub-Section (2) of Section 23-A shall not affect any proceedings for the offences under Indian Penal Code, such as, Sections 379 and 414 Indian Penal Code and the same shall be proceeded with further."



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5. Let the respondent follow the guidelines and file the final report.

6. With this direction, this Criminal Original Petition is disposed of.

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

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To

- 1.The Principal District and Sessions Court, Trichy.
- 2.The Inspector of Police, Musiri Police Station Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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G.ILANGO VAN,J.

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