



CRL.OP(MD)No.20699 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	29.09.2023
Pronounced on	23.11.2023

CORAM

THE HONOURABLE MR. JUSTICE P.DHANABAL

CRL.OP(MD)No.20699 of 2021
and
CrI.MP(MD)No.11798 of 2021

1.Sithiah

2.Kala

... Petitioners

Versus

1.The State represented by
The Inspector of Police,
Civil Supplies C.I.D,
Virudhunagar.
(Crime No.123 of 2021)

2.The Special Tahsildar,
Civil Supplies Department,
Rajapalayam,
Virudhunagar District.

... Respondents



CRL.OP(MD)No.20699 of 2021

Prayer : The Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.123 of 2021 on the file of the 1st Respondent and quash the same.

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 call for the records in Crime No.123 of 2021 on the file of the 1st Respondent and quash the same and to pass such further or other orders.

2. According to the Petitioners, the 2nd Respondent had given a complaint as against the Petitioners and others and based on that complaint, the 1st Respondent has registered a case in Crime No.123 of 2021 for the offences under Section 4 of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1984 read with 7(1)(a)(ii) of Essential Commodities Act, 1955 and the same is pending for investigation.

3. The prosecution case is that on 06.09.2021, the complainant along with his subordinates were on surveillance to prevent smuggling of



scheduled commodities. When they were checking up the vehicles on Tenkasi Road opposite to Hotel Amizh, an Eicher lorry bearing Registration No.TN-79-E-7085 loaded with gunny bags entered into Sri Sankara Narayanan Modern Rice Mill at about 10.30 p.m. After passing off 2 hours i.e., at 12.30 a.m., the very same lorry loaded with polythene bags came out of the Rice Mill and proceeded towards weighbridge. After weighing the load, the vehicle came out of the weigh bridge. Immediately, the 2nd Respondent intercepted the Lorry and inspected the same. The inspection revealed that the driver of the Lorry did not possess valid material whatsoever to the paddy bags loaded in the Lorry. The driver of the Lorry revealed that the Petitioners are hulling agents and at their instance, he took the paddy bags to sell them to private Rice Mill. Thereby, the complaint was lodged and the above said case was registered.

4. In fact, the Petitioners were not involved in smuggling or selling the commodities to private Rice Mill. They were roped in the criminal case only based on the oral confession of the driver. As per the confession statement of the driver, the Petitioners are the hulling agents and they used to sell the paddy supplied by the Tamil Nadu Civil Supplies



Corporation to private Rice Mill owners. The above said registration of FIR is abuse of process of law. Since the allegation found in the FIR do not make out any offence as against the Petitioners. The allegations mentioned in the FIR did not attract any offences as against the Petitioners.

5. The Tamil Nadu Civil Supplies Corporation had not given any complaint as against the Petitioners. Therefore, without applying the mind, the 2nd Respondent had given a complaint and based on the complaint, the FIR has been registered. The 2nd Respondent has no jurisdiction to inspect the Petitioners Mill or paddy and rice kept in the Mill because the Petitioners are hulling agents and they were duly appointed by the Tamil Nadu Civil Supplies Corporation through an authorisation. The Tamil Nadu Civil Supplies Corporation alone has got the jurisdiction to inspect the Mill and therefore, the complaint lodged by the 2nd Respondent is abuse of process of law. Also, the Petitioners are aged persons and they have not committed any offence as alleged in the FIR and thereby, the pending FIR is liable to be quashed.

6. No counter was filed by the Respondents.



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7. The learned counsel appearing for the Petitioners would contend that the 2nd Respondent has given a complaint as against the Petitioners and others and based on that complaint, the 1st Respondent registered a case in Crime No.123 of 2021 for the offences under Section 4 of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1984 read with 7(1)(a)(ii) of Essential Commodities Act, 1955. In fact, these Petitioners are hulling agents and the Tamil Nadu Civil Supplies Corporation has authorized the Petitioners as hulling agents and thereby, the 2nd Respondent without considering the above said aspect wrongly lodged a complaint before the 1st Respondent and the 1st Respondent also without conducting enquiry, mechanically registered the FIR. Even as per the averments of the complaint, no offences were made out and thereby, the pending FIR is liable to be quashed.

8. The learned Government Advocate (Criminal Side) appearing for the Respondents would contend that the Petitioners loaded the paddy from the Mill and transported the same to private Mills for sale purpose. Thereby, the 2nd Respondent who was on surveillance to prevent



smuggling of essential commodities, intercepted the Petitioners lorry and the driver had stated that he took the paddy bags to sell them to private Rice Mills at the instance of the Petitioners. Thereby, the 2nd Respondent had given complaint before the 1st Respondent. Based on the complaint, the 1st Respondent registered a case in Crime No.123 of 2021 for the offences under Section 4 of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1984 read with 7(1)(a)(ii) of Essential Commodities Act, 1955. Now, the case is pending for investigation and the investigation is at initial stage. At this stage, the case of the Petitioners cannot be decided and it needs elaborate investigation. Thereby, the petition is liable to be dismissed.

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

10. According to the Petitioners, the 2nd Respondent lodged a complaint alleging that these Petitioners are hulling agents and they took the paddy bags to sell them to the private Rice Mills. When the 2nd Respondent was on surveillance to prevent the smuggling of essential commodities, they found the Petitioners lorry with paddy bags and then based on the confession statement given by the driver of the lorry, he lodged a complaint. The 2nd



Respondent has no jurisdiction to lodge such complaint since the Petitioners are hulling agents duly authorized by Tamil Nadu Civil Supplies Corporation and if any violation the authorized persons of the Tamil Nadu Civil Supplies Corporation have to take legal actions as against the Petitioners and the 2nd Respondent cannot file a complaint. Further, as per the contention of the FIR, no offences are made out as against these Petitioners.

11. The Contention of the Respondents is that based on the complaint given by the 2nd Respondent, the 1st Respondent registered a case and now the case is under investigation. It is admitted fact that the lorry was intercepted by the 2nd Respondent with paddy bags but the Petitioners have says that they have license from the Tamil Nadu Civil Supplies Corporation and they are hulling agents. As per the contention of the Respondent, the case is under the initial stage of investigation. At this stage, the grounds raised by the Petitioner cannot be considered and the same was nothing but defense. It is for the Investigating Officer to conduct the fair investigation and the Petitioners are at liberty to approach the Investigating Officer if they are having any records with regard to the hulling agents and after production



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of the records, the Investigating Officer has to take his own decision after perusing the documents and to investigate the case in accordance with law.

12. Further, the contention of the Petitioners is that as per the FIR, no offences are made out but the FIR has been registered under Section 4 of Tamil Nadu Essential Trade Articles (Regulation of Trade) Order 1984 read with 7(1)(a)(ii) of Essential Commodities Act, 1955 and the complaint also revealed the same. On perusal of the complaint and FIR, the *prima facie* constitute the offence and thereby, at this stage, this Court cannot scuttle the investigation of the police.

13. It is for the Investigating Officer to find out the truth by conducting a fair investigation. After completion of investigation, if anything adverse against the Petitioners, they can agitate the same in the manner known to law but not at this stage. Therefore, as discussed above, this Court is of the opinion that this petition has no merits and deserved to be dismissed.



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14. In the result, this Criminal Original Petition is dismissed.

Consequently, connected miscellaneous petition is closed.

23.11.2023
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Index:Yes/No

Speaking Order : Yes/No

To

1.The Inspector of Police,
Civil Supplies C.I.D,
Virudhunagar.

2.The Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL., J.

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PRE- DELIVERY JUDGEMENT MADE IN

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(2/2)