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Crl.O.P.(MD)No.16693 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 06/10/2023

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The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.OP (MD)No.16693 of 2023

and

Crl.MP (MD)Nos.13309 and 13310 of 2023

D.Sakthivel : Petitioner/A2

Vs.

1.The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam, Madurai District.
(In Crime No.365 of 2022) : R1/Complainant

2.The Village Administrative Officer,
Village Administrative Office,
Sengulam Village, Thirumangalam Taluk,
Madurai District. : R2/De-facto
Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to Preliminary Registered Case in PRC No.23 of 2023, dated 21/02/2023 pending on the file of the Judicial Magistrate, Thirumangalam, Madurai District and to quash the same as illegal and to pass any such further or other orders.

For Petitioner : Mr.C.M.Arumugam

For Respondents : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the case in PRC No.23 of 2023 on the file of the Judicial Magistrate, Thirumangalam, Madurai District.



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2.The case of the prosecution in brief:-

On 10/09/2022 at about 12.30 pm, the de-facto complainant and others were on routine check up on the Thirumangalam-Usilampatti road. At that time, they found a Tipper Lorry bearing registration No.TN-58-Y-6225 loaded with stones. They intercepted it. On verification of records, it was found that they transported the stones beyond the permitted time. On the basis of the above said occurrence, a case in Crime No.379 IPC r/w 21(1) of Mines and Minerals (Development & Regulation) Act, 1987 has been registered. After completing the investigation, final report has been filed and it was taken cognizance in PRC No.23 of 2023 by the Judicial Magistrate, Thirumangalam.

3.Seeking quashment of the same, this petition has been filed on the sole ground that permit was granted in favour of one Annamuthu for transporting 3.00 CBM of the rough stone from the quarry area to Kandukulum village through Lorry bearing registration No.TN-58-Y-6225; Permit was granted, on 10/09/2022; Transporting time is mentioned as 09.00 and duration is 3 hours; now it has been stated by the prosecution that no specific time is mentioned, whether in the forenoon or in the night hours; It has been stated as 9 in numerical number;



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Am or PM is not mentioned; Usually working hours of the quarry is only during day time and not night time; Even if we take that no proper time is mentioned, the genuineness of the permit cannot be disputed and denied; If there is any violation of permit, the competent authority can proceed against the owner of the quarry for transporting or cancelling the licence and the question of theft will not arise in the situation; By misconception, it appears that the above said complaint has been registered and final report has been filed. The respondent ought to have got proper clarification from the clearing authority; Without getting any clarification, in a mechanical manner, final report has been filed.

4. Reading of the final report does not indicate the enquiry with the concerned Mining Department. On the basis of the defective particulars, it appears that the case has been registered.

5. The learned counsel appearing for the petitioner is also referring to the report submitted by the Inspector of Police, Thirumangalam Town Police Station to the Revenue Divisional Officer, on the basis of enquiry undertaken in pursuance of the order passed in WP(MD)No.



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21979 of 2022. Wherein, it has been stated by the Inspector of Police, Thirumangalam Town Police Station that actually the above said lorry was taken at about 11-12 am to Taluk Office, Thirumangalam. So, the interception and seizure of the lorry is not correct on record.

6.Even though it is a factual aspect, the official communication sent by the Inspector of Police, Thirumangalam Town Police State indicates that stones were transported only within the permitted time. So, the prosecution has not initiated action in a *bona fide* manner. On that sole ground, this petition is liable to be allowed.

7.In the result, this criminal original petition is **allowed**. The case in PRC No.23 of 2023 on the file of the Judicial Magistrate, Thirumangalam, Madurai District is hereby quashed as against the petitioner. Consequently, connected Miscellaneous Petitions are closed.

06/10/2023

Index:Yes/No
Internet:Yes/No

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To,

1.The Judicial Magistrate,
Thirumangalam,
Madurai District.

2.The Inspector of Police,
Thirumangalam Town Police Station,
Thirumangalam,
Madurai District.

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



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G.ILANGOVAN, J

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