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Crl.O.P.(MD)No.22346 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 12/12/2023

CORAM

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

Crl.OP(MD)No.22346 of 2023

and

Crl.MP(MD)No.17472 of 2023

1.C.Sumesh Babu

2.I.Mohammed Kunju : Petitioners/A1 and A2

Vs.

1.State rep. by

The Inspector of Police,

Aralvoimozhi Police Station,

Kanniyakumari District.

(Crime No.154 of 2023) : R1/Complainant

2.Thanga Muniyasamy,

Deputy Director Geology Mining,

Kanyakumari District. : R2/De-facto Complainant

PRAYER:- Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records in Crime No.154 of 2023 on the file of the Inspector of Police, Aralviomozhi Police Station, Kanyakumari district and quash the same as illegal.

For Petitioners : Mr.Shaazim Shagar

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



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O R D E R

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.154 of 2023 on the file of the Inspector of Police, Aralvoimozhi Police Station.

2.The case of the prosecution in brief:-

The de-facto complainant is the Deputy Director of Geology Mining, Kanyakumari lodged a complaint stating that on 17/06/2023 at about 02.40 am along with his team, intercepted a loaded lorry bearing registration Nos.TN-75-AU-5377 and KL-23-V-9550. At that time, they found the lorries loaded with crushed stones. They asked the drivers to produce the trip sheet and permission. On perusal of the trip sheet and permission, they found that the transport pass possessed by the driver in respect of TN-75-AU-5377 was valid only till midnight 12.00 of 16/06/2023. On the basis of the complaint, a case in Crime No.154 of 2023 was registered for the offences under section 379 IPC and section 21(4) of Mines and Minerals (Development & Regulation) Act 1957.

3.Seeking quashment of the same, this petition has been filed by the petitioners, who are arrayed as A1 and A2 on the ground that none of the allegations mentioned



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in the FIR attract any of the ingredients of the offences alleged against them.

4.Heard both sides.

5.A simple point is raised by the petitioners.

6.The genuineness of the trip sheet is not disputed by the prosecution. What is disputed is only the time limit. Even as per the case of the prosecution, permission was granted upto 11.20 pm, on 16/06/2023 to transport the crushed stones.

7.We will confine ourselves only the limited scope.

8.Section 379 IPC reads as under:-

"379.Punishment for theft.-Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both."

9.Section 21(4) of the Mines and Minerals (Development and Regulation) Act, reads as under:-



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"21.(4)Whenever any person raises, transports or causes to be raised or transported, without any lawful authority, any mineral from any land, and, for that purpose, uses any tool, equipment, vehicle or any other thing, such mineral, tool, equipment, vehicle or any other thing shall be liable to be seized by an officer of authority specially empowered in this behalf."

10.As mentioned above, permission was granted to the petitioners to transport the crushed stones. If there is any discrepancy with regard to the time limit, then the Investigating Officer ought to have verified the same with the competent issuing authority. That was not properly done. So even if, we consider that it is violation of the condition of permit with regard to the time either the owner of the crushed stones or the owner of the vehicle can be proceeded as per the provisions of the Mines and Minerals (Development and Regulation) Act, 1987. But for violation of the permit, the petitioners cannot be proceeded certainly under section 379 IPC or section 21(4) of the Mines and Minerals (Development and Regulation) Act. So the offences mentioned in the FIR are not attracted against the petitioners.



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11.Without following the proper procedure, FIR has also been registered, which I am of the considered view that continuation of the prosecution will amount violation of principles. On that account, without going into the other aspects, the petition is liable to be allowed.

12.In the result, this criminal original petition is **allowed**. The FIR in Crime No.154 of 2023 pending on the file of the Inspector of Police, Araivoimozhi Police Station, Kanyakumari is herein quashed against the petitioners. Consequently, connected Miscellaneous Petition is closed.

12/12/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Aralvoimozhi Police Station,
Kanniyakumari District.
- 2.The Deputy Director Geology Mining,
Kanyakumari 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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