



WEB COPY



Crl.O.P.No. 7039 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.01.2024

CORAM

THE HONOURABLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No. 7039 of 2022

and

Crl.M.P.No. 3997 of 2022

V. Babu

... Petitioner

Vs.

1.The State Rep., by
The Inspector of Police,
CSCID Thiruvallur.
Crime No. 305/2013

2.S.L. Rajesh,
The Assistant Engineer/Mech,
Fuel Oil Pump House, Ash Handling Plant,
NCTPS Stage – II, Chennai – 600 120.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the charge sheet in C.C.No.238 of 2017, pending on the file of Judicial Magistrate Court No.1, Thiruvallur and to quash the same.

For Petitioner : Mr.S.Sathish Rajan

For Respondents : Mr.S.Vinoth Kumar, for R1
Government Advocate (Crl.Side)
No Appearance for R2



Crl.O.P.No. 7039 of 2022

WEB COPY

ORDER

The petitioner has filed this Criminal Original petition to quash the proceedings in C.C.No.238 of 2017, pending on the file of Judicial Magistrate Court No.1, Thiruvallur, in which cognizance was taken for the offence under Sections 2(f)(iv)(v)(vi),2(i) of the Motor Spirit and High Speed Diesel (Regulation of supply, distribution and prevention of Malpractices) order 2005 r/w 7(i)a and (ii) of E.C. Act and Section 285 of IPC.

2. The case of the prosecution is that the defacto complainant is working as Assistant Engineer /Mechanical at NCTPS stage-II looking after the maintenance works and oil decanding works in fuel oil pump house form 12.07.2012 to till date. On 15.11.2013 about 19.00 hrs while making arrangements for unloading the HFO loaded truck belongs to one Kannan. The gross weight of the truck was checked by out stores custodian and then lock was checked and opened by the Umamageswara Prasad AE/O&E. Then the delivery value of the truck was opened and density and temperature of the HFO were checked by our Junior Assistant and the lab result was found



Crl.O.P.No. 7039 of 2022

normal. Then the compartments of the truck were connected to the Oil discharge line, on releasing the air at pump suction point it was noticed that instead of heavy furnace oil water and air mixture came out from the air valve and hence it was suspected that adultration has been made in the HFO. So the above oil truck was not unloaded for discharging furnace oil from the truck and the oil truck has been parked at the oil unloading area itself. On 16.11.13 our department executive engineer / vigilance / TANGEDCO also checked the above truck in the presence of superintending Engineer / Operation / NCTPS stage – II and confirmed adulteration. The driver of the truck Murugan and he cleaner Senthil had left out the premises without our permission and our knowledge. But the cleaner Senthil who returned back on 17.11.2013 at 15.00 hrs for taking his dresses has been handed over to the Inspector /Civil Supplisers CID, Thiruvallur on enquiry the cleaner told that some quantity of HFO was taken from the truck and added water in the compartments having HFO by some private party near Gowndampalayam Poneeri High Road. This report is submitted for conducting further investigation and for taking necessary action against the persons involving in this adultration. Hence, the complaint.



Crl.O.P.No. 7039 of 2022

3. The learned counsel for the petitioner submitted that the petitioner is no way connected with the alleged offence made by the prosecution. He further submitted that the petitioner name was not found in FIR, based on the confession statement given by A3, he was falsely implicated in this case. He further submitted that in order to regulate the use of Furnace Oil viz. Furnace Oil (Fixation of Ceiling price and Distribution) order 1974. the said act was rescinded by the Central Government Vide S.O.No.640(E) dated 31.07.1998. In view of the same there is no regulation or order to regulate the possession or sale of Furnace Oil. Hence there cannot be any offence under the Essential Commodities Act. He has also brought to the notice of this Court the order passed by this Court in Seelan @ Jayaseelan Vs. State in Crl.O.P.No.4627 of 2013, dated 14.06.2017, in which reads as follows;

“3. The prosecution alleges offence u/s.407 and 285 IPC committed in the course of violation of the provisions of Furnace Oil (Fixation of Ceiling Prices and Distribution) order 1974. The commission of such offence has allegedly taken place on 09.03.2012. The very Furnace Oil (Fixation of Ceiling prices and distribution) has been rescinded under S.O.640(E), dated 31st July 1998. Therefore, Offences alleged cannot be attracted for an occurrence of the year 2012.”



Crl.O.P.No. 7039 of 2022

WEB COPY

4. The learned Government Advocate (Crl.Side) appearing for the 1st respondent submitted that based on the complaint lodged by the defacto complainant FIR has been registered in Crime No.305 of 20123 and the case has been taken in C.C.No.238 of 2017 on the file of Judicial Magistrate Court No.1, Thiruvallur, in which cognizance was taken for the offence under Sections 2(f)(iv)(v)(vi),2(i) of the Motor Spirit and High Speed Diesel (Regulation of supply, distribution and prevention of Malpractices) order 2005 r/w 7(i)a and (ii) of E.C. Act and Section 285 of IPC. He further submitted that he is not able to dispute the order passed by this Court and admits the S.O.No.640(E), dated 31.07.1998.

5. Considering the facts and circumstances and also considering the submissions made by both side counsels, as on date there is no regulation in respect of the possession of the Furnace Oil and the above judgement relied by the learned counsel for the petitioner is squarely apply to the facts of the case. Hence, this Court is inclined to quash the proceedings against the petitioner in C.C.No.238 of 2017 on the file of Judicial Magistrate Court No.1, Thiruvallur.



Crl.O.P.No. 7039 of 2022

WEB COPY 6. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petition is closed.

11.01.2024

Speaking Order/ Non Speaking Order

Index: Yes/ No

Neutral Citation: Yes/No

rri

To

- 1.The Inspector of Police,
CSCID Thiruvallur.
- 2.The Judicial Magistrate No.1,
Thiruvallur.
- 3.The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No. 7039 of 2022

T.V.THAMILSELVI, J.

ri

Crl.O.P.No. 7039 of 2022
and
Crl.M.P.No. 3997 of 2022

11.01.2024