



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.03.2024

CORAM

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P. No.5639 of 2024
and Crl.M.P. No.4106 of 2024

1.K.K.Velu

2.Mathiyalagan

3.Inbaraj

...Petitioners

Vs

State Rep. by:
The Deputy Superintendent of Police,
Civil Supplies CID, Salem.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records and quash the proceedings as against the petitioner in Crime No.87 of 2020 pending on the file of the respondent.

For Petitioner : Mr.M.Fazil Perarivalan

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



ORDER

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This criminal original petition has been filed challenging the FIR registered in Crime No.87 of 2020 pending investigation on the file of the respondent police.

2.The case of the prosecution is that on 25.08.2020 at about 6 a.m., based on some information, the respondent police along with other police officers found an Ashok Leyland Tanker lorry in a vacant ground. On inspecting the vehicle, it was found that petroleum product has been transported without proper license or permission. Samples were also drawn under mahazar. Under these circumstances, an FIR came to be registered in Crime No.87 of 2020 on 25.08.2020 for offence under Section 2(e), 4 of the Motor Spirit & High Speed Diesel (Regulation of Supply & Distribution & Prevention of Malpractices), Order 2005, Section 7(1)(a)(ii) of the Essential Commodities Act, 1955 and Section 285 of IPC.

3.When the matter came up for hearing on 08.03.2024, this Court passed the following order:

*Mr.A.Damodaran, learned Additional Public
Prosecutor takes notice on behalf of the respondent.*



2. *The main issue that was urged by the learned counsel for the petitioner is that the sample has not been forwarded to the laboratory as mandated under the relevant provision and therefore, the very continuation of the investigation is vitiated.*

3. *The learned counsel in order to substantiate the submission, relied upon the judgment of this Court in **Kannappan and Another vs. The Inspector of Police, CSCID, Salem and Another** reported in **CDJ 2023 MHC 1413**.*

Post this case under the same caption on 14.03.2024.

4. When the matter was taken up for hearing today, the learned Additional Public Prosecutor on instructions submitted that the sample was drawn on 25.08.2020 and it was sent to the notified laboratory for chemical analysis on 04.09.2020. However, till date no report has been received from the notified laboratory.

5. It is clear from the above submission that there is a clear violation of Clause 8(5) of the Motor Spirit & High Speed Diesel (Regulation of Supply & Distribution & Prevention of Malpractices), Order 2005. This clause mandates that the laboratory should furnish the test report to the authorized officer, within a



period of twenty days after the receipt of the sample at the laboratory. The sample had been sent on 04.09.2020 itself and till date no report has been furnished. Therefore, the very continuation of the prosecution is vitiated and it requires the interference of this Court.

6.In the light of the above discussion, FIR in Crime No.87 of 2020 pending investigation on the file of the respondent police, is hereby quashed and this criminal original petition stands allowed. Consequently, connected miscellaneous petition is closed.

14.03.2024

Index : Yes/No
Speaking order: Yes/No
Neutral citation: Yes/No
ssr



To

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1. The Deputy Superintendent of Police,
Civil Supplies CID, Salem.
2. The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J

SSI

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