



Crl.O.P.No.9827 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.02.2024

CORAM:

THE HON'BLE MRS.JUSTICE T.V.THAMILSELVI

Crl.O.P.No.9827 of 2022
and
Crl.M.P.Nos.5774 & 5776 of 2022

1. G.Arunkumar
2. V.Vishwanathan
3. A.Velan
4. K.Palayam

... Petitioners

Versus

State of Tamil Nadu,
rep. by its Inspector of Police,
Civil Supply CID,
Chennai-P-S.

... Respondent

PRAYER : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records relating to C.C.No. 4331 of 2020 on the file of the learned Judicial Magistrate No.1, Tiruvallur and to quash all further proceedings in C.C.No.4331 of 2020 pending before the learned J.M.No.1, Tiruvallur.



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For Petitioners : Mr.S.Dhanusu
For Respondent : Mr.S.Vinoth Kumar,
Govt. Advocate (Crl. Side)

ORDER

This Criminal Original Petition has been filed seeking to quash the charge sheet in C.C. No. 4331 of 2020 on the file of learned Judicial Magistrate No.1, Tiruvallur.

2. Heard both sides.

3. The petitioners are ranked as A1 to A4 in the F.I.R. in Crime No.47 of 2019 registered for the offence under Sec.2(e)(ii) of Motor Spirit and High Speed Diesel (Regulation of Supply and Distribution and Prevention of Malpractices) Order 1988, r/w Sec.7(1)(a)(ii) of Essential Commodities Act, 1955. Subsequently, the charge sheet has been filed and the same was taken on file in C.C.No.4331 of 2020 on the file of Judicial Magistrate No.1, Tiruvallur and the same is pending. Now, the petitioners have filed this petition praying to quash the said charge sheet.



As per the charge sheet, on 12.02.2019, when the respondent police on their regular patrol duty, they found at Manjambakkam near the Karthikeyan Lorry shed, the petitioners' have attempted to transport the high speed diesel from one tanker lorry bearing Regn. No. TN-05-BC-6885 belong to A1 to another tanker tanker lorry bearing Regn. No. TN-02-R.4251, they have seized the vehicle involved in the crime and arrested the petitioners and remanded them to judicial custody on 12.02.2019. After completion of investigation, the final report was filed and the same was taken on file in C.C.No. 4331 of 2020.

4. The learned counsel for petitioners would submit that they have been falsely implicated in this case by the respondent police and they are no way connected with the offence as alleged by the respondent police. He would submit that the Inspector of Police, Civil Supply C.I.D. had registered the F.I.R. in Crime No. 47 of 2019 and seized the vehicle and subsequently, arrested them, but he has no right to conduct the said investigation as per the Special Act, however not below the rank of Deputy Superintendent of Police is authorised to conduct the investigation. Therefore, he prayed to quash the proceedings initiated



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against them by the Inspector of Police, Civil Supply CID, since because he has no power to conduct enquiry and also entire procedures are not contemplated as per the Rule 4 of the Ministry of Petroleum and Natural Gas Order, which reads as follows:-

“4. Power of search and seizure :- (A) Any gazetted officer of the Central or State Government or any Police Officer not below the rank of Deputy Superintendent of Police (DSP) duly authorised, by general or special order by the Central Government or State Government as the case may be or any officer of the concerned Oil company not below the rank of Sales Officer may, with a view to securing compliance with the provisions of this Order or for the purpose of satisfying himself that this order or any order made thereunder.....”

So, as per Rule 4, it would clearly shows that not below the rank of Deputy Superintendent of Police is only authorised for the purpose of conducting investigation. In support of his contentions, he referred the ratio laid down in the authorities reported in (1) **1998 (8) SCC 655** in the



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case of ***Mohinder Kumar vs. State, Panaji, Goa, (2) 2006 SCC Online Pat 316 : (2000) 54 (3) BLJR 1688, Patna High Court***, in the case of ***Mohan Pandey and Ors. vs. State of Bihar*** and (3) the authority held by this court vide an ***order dated 25.02.2011 in Crl.O.P. (MD) No. 2396 of 2011*** in the case of ***Karuthapandi and another vs. State.***

5. By way of reply, the learned Government Advocate (Criminal side) appearing for respondent would submit that though the F.I.R. was registered by the Inspector of Police, but subsequently the investigation was forwarded to Deputy Superintendent of Police, Chennai Zone. Therefore, the further investigation was conducted by the Deputy Superintendent of Police and subsequently final report was filed. Hence, he prayed to dismiss this petition.

6. Considering the facts and circumstances of the case and the fact that final report has been filed and the case is ripe for trial, this Court is not inclined to quash the proceedings initiated in C.C.No. 4331 of 2020 against the petitioners. If at all, there is any violation, the petitioners are directed to work out their remedy before the appropriate forum and they



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can very raise any such defence before the trial court. Furthermore, the authorities relied on by the petitioners' counsel reported in (1) **1998 (8) SCC 655** in the case of ***Mohinder Kumar vs. State, Panaji, Goa***, (2) **2006 SCC Online Pat 316 : (2000) 54 (3) BLJR 1688, Patna High Court**, in the case of ***Mohan Pandey and Ors. vs. State of Bihar*** and (3) the authority held by this court vide an ***order dated 25.02.2011 in Crl.O.P. (MD) No. 2396 of 2011*** in the case of ***Karuthapandi and another vs. State*** are not applicable to the facts of the instant case. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Criminal Miscellaneous Petition is closed.

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Index: Yes/No
Internet: Yes/No
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To

1. Inspector of Police,
Civil Supply CID,
Chennai-P-S.
2. The Public Prosecutor,
High Court, Madras.



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T.V.THAMILSELVI, J.

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