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Crl.O.P.No.10788 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.06.2024

CORAM

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Crl.O.P.No.10788 of 2024

R.Arulkumar

.... Petitioner

Versus

The State represented by
the Inspector of Police,
Thalaivasal Police Station,
Salem District.
(Crime No.112 of 2021)

.... Respondent

Prayer: The Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the entire records in connection with the First Information Report in Crime No.112 of 2021 on the file of the respondent police and quash the same in so far as the petitioner is concerned.

For Petitioners : Mr.M.Elumalai

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)

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ORDER

The petitioner herein is arrayed as the 9th accused in the case registered by the Inspector of Police, Thalaivasal Police Station, for the offence under Section 379 and 420 of I.P.C. r/w Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957.

2. The learned counsel appearing for the petitioner submitted that the petitioner is alleged to have lent the JCB machine owned by his father to the other accused for committing theft of sand and for adulteration of the sand and thereby, cheated the general public as if the sand is fit for construction. However, the fact remains that the petitioner is an Engineering College Student at Coimbatore and nothing to do with the alleged crime or JCB according to the prosecution, used for committing theft of river sand.

3. Per contra, the learned Government Advocate (Crl.Side) submitted that the confession statement of one of the accused discloses the role of the petitioner, who has lent the JCB owned by his father.



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4. The learned counsel appearing for the petitioner would submit that even if the confession is to be admitted, it does not disclose any overt act on the part of the petitioner herein or *mens rea* to commit the offence for which, the case has been registered.

5. This Court, on perusing the records, finds that except the presumption that the JCB machine involved in the alleged theft, owned by the petitioner's father, which is not correct, there is no material to implicate the petitioner as pointed out by the learned counsel for the petitioner. A piece of the confession alleged have been given by a co-accused is relied by the police. But, on the face, it does not disclose that the petitioner gave the JCB of his father to the other accused knowing that it will be used for committing theft or any other act as mentioned in the F.I.R. In such circumstances, the person, who is no way connected with the vehicle or the alleged crime cannot be subjected to the ordeal of the criminal prosecution.



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DR.G. JAYACHANDRAN, J.

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