



Crl.O.P.(MD)No.271 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2024

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CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD) No.271 of 2023

and

Crl.M.P.(MD).No.193 of 2023

Thangaraj

... Petitioner

Vs.

State represented by
the Sub Inspector of Police,
Devarkulam Police Station,
Devarkulam,
Tirunelveli District.
(Crime No.201 of 2022)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to FIR registered in Crime No. 201 of 2022, dated 17.10.2022, on the file of the respondent Police and to quash the same as illegal in respect of the petitioner / Accused No.5 alone.

For Petitioner : Mr.K.Vinayagan

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



ORDER

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This Criminal Original Petition has been filed to quash the First Information Report registered by the respondent Police in Crime No.201 of 2022 for the offence punishable under Section 379 IPC and Section 21 (1) of the Mines and Minerals (Development and Regulation) Act, 1957.

2. The case of the prosecution is that by misusing the permit granted in favour of the petitioner, two kilograms of river sand was transported in the vehicle by Accused Nos.1 to 4.

3. The main ground that was taken by the learned counsel appearing for the petitioner is that the District Collector through proceedings dated 10.04.2022, had permitted the petitioner to quarry and transport the well sand and pursuant to the same, it was transported in the vehicle. It was further contended that the sand that was seized was also directed to be inspected by the Revenue Divisional Officer and the Revenue Divisional Officer, Veerakeralamputhur, through a report, dated 21.10.2022, informed the District Collector, Tenkasi District, that what was carried in the vehicle was only well sand. In view of the same, the petitioner has taken a very clear stand that no offence has been made out against the petitioner and what was carried in the vehicle was in line with



the permit that was granted in favour of the petitioner by the District Collector.

4. The learned Additional Public Prosecutor appearing on behalf of the respondent Police submitted that the mineral that was seized from the vehicle was sent for analysis and a report has been received to the effect that what was carried in the lorry was not well sand and it was found to be red sand. Based on this report and based on the materials that were gathered in the course of investigation, a final report has been filed before the learned Judicial Magistrate No.III, Tirunelveli, through E-Filing mode for the offence punishable under Section 379 IPC as against Accused Nos.1 to 4 and for the offence punishable under Section 379 read with Section 109 IPC as against the petitioner (Accused No.5).

5. This Court carefully considered the submissions made on either side and the materials available on record.

6. While dealing with the petition to quash the First Information Report, the Court has to necessarily go by the allegations made in the First Information Report. The specific case of the petitioner is that what was carried in the vehicle was only well sand and for which, the



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petitioner already had a permit from the District Collector. However, the prosecution is now relying upon the report of the Specialists, which shows that what was seized was not well sand and it was red sand. This issue cannot be gone into while dealing with a petition to quash the First Information Report and it is a matter for trial.

7. In view of the above, considering the disputed facts involved in this case and also considering the fact that the final report has already been filed before the concerned Court, this Court is not inclined to quash the First Information Report. It is left open to the petitioner to raise all the grounds before the concerned Court and it will be dealt with on its own merits and in accordance with law.

8. This Criminal Original Petition is disposed of accordingly. Consequently, the connected miscellaneous petition is closed.

04.11.2024

Index : Yes/No
Internet : Yes/No
TSG



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To

1. The Sub Inspector of Police,
Devarkulam Police Station,
Devarkulam,
Tirunelveli District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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N.ANAND VENKATESH. J.

TSG

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