



CrI.O.P.(MD)No.13857 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.03.2024

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.(MD) No.13857 of 2022

and

CrI.M.P.(MD).No.8881 of 2022

S.Tirumalai

... Petitioners/Accused No.2

Vs.

1.The State through

The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
Crime No.182 of 2021.

... 1st Respondent/Complainant

2.Venkadaswaran

... 2nd Respondent/Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the impugned FIR in Crime No.182 of 2021 on the file of the respondent police dated 17.10.2021 and to quash the same as illegal insofar the petitioner/A2 is concerned.

For petitioners

: Mr.K.R.Laxman

For R1

: Mr.B.Nambiselvan
Additional Public Prosecutor

For R2

: No Appearance



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ORDER

This petition has been filed to quash the FIR in Crime No. 182 of 2022 on the file of the respondent police.

2. The case of the prosecution is that on 17.10.2021, at 12.00 p.m, on the secret information about the illegal sand mining, the Village Administrative Officer along with one Mahendran went for inspection at S.No.134, Pisinthi Village, Chettioorani Western side. At that time, a JCB bearing Reg.No.TN-63-AM-3528 contains the name of Palani/A3, illegally segregated sand by digging soil in order to transport the same to the petitioner. Further, the FIR alleged that the said Palani/A3 requested the driver of the JCB to excavate the sand from the Chettioorani for the personal benefits of the petitioner. Based on the statement made by the other accused persons, the petitioner was implicated in this case. Challenging the same, the present petition is filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent person and he has not been committed any offence as alleged by the prosecution. Even as per the contention of FIR, the Tractor is belong to the petitioner. However, it stands in the name of Palani/A3. Hence, the contention of the FIR is false one. In



order to implicate the petitioner, a false case has been foisted against the petitioner is not sustainable one. He would further submit that the petitioner is a Social Activist and he is the President of the Society by name, 'Anaithu Vivasayigalin Kanimavala Neervalu Sutrusoolal Pathugappu Sangam'. The petitioner repeatedly fighting against the sand mafia group by filing several public interest litigation before the Court. Even before this Court, he filed two public interest litigation in WP(MD)No.16151 of 2020 and WP(MD)No.64566 of 2020 against the sand mafia group. He also used to give information to the officials of the Revenue Department about the illegal sand mining. Thereby, the Law Enforcing Agency registered false cases against the petitioner and opened a History Sheet against him. All the cases against the petitioner were ended in acquittal. Even after that, the petitioner repeatedly fighting against the sand mafia group. In order to prevent him, the present case has been foisted against him. Hence, he prayed for quashing of FIR registered against him.

4.The learned Additional Public Prosecutor appearing for the State would submit that As per the FIR, the Tractor is belong to the petitioner. As per the instruction given by the petitioner, A1 excavated the gravel sand in Chettioorani in a vehicle owned by the third accused and the



petitioner himself gave a confession statement before the Law Enforcing Agency that as per his instruction, gravel sand was removed from the Chettioorani. He would further submit that 3 previous cases are pending against him and History Sheet was also opened. The FIR is only an information passed to the Law Enforcing Agency. After receiving an information, the Law Enforcing Agency will conduct investigation. In the present case, investigation was completed and charge sheet was filed before the learned Principal Sessions Court, Srivilliputhur through e-filing and the same is not yet taken on file. Hence, he prayed for dismissal of this petition.

5. From the perusal of the FIR, it reveals that the Village Administrative Officer secured A1 & A3. Based on their confession statement, the petitioner has been implicated. It is the undisputed fact that the petitioner is the President of 'Anaithu Vivasayigalin Kanimavala Neervalu Sutrusoolal Pathugappu Sangam' and he filed two public interest litigation before this Court in WP(MD)No.16151 of 2020 and WP(MD)No.64566 of 2020 against the sand mafia group. Further, the petitioner was not available in the scene of occurrence and the petitioner's vehicle was not used for transporting of sand. Mere statement made by the co-accused, the Law Enforcing Agency foisted a case



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against the petitioner is not sustainable one and it is a malicious prosecution instituted as against the petitioner. Hence, the FIR registered against the petitioner is liable to be quashed.

6. Accordingly, the FIR in Crime No.182 of 2022 on the file of the respondent police, is hereby quashed insofar as the petitioner/A2 is concerned and the Criminal Original Petition stands allowed. Consequently, the connected miscellaneous petition is closed.

01.03.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
dss

To

1. The Inspector of Police,
Kariyapatti Police Station,
Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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