



Crl.O.P.(MD) No.15225 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 26.03.2024

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THE HON'BLE MRS.JUSTICE R.HEMALATHA

Crl.O.P.(MD) No.15225 of 2021

and

Crl.M.P.(MD) No.8166 of 2021

Vijay

... Petitioner

Vs.

1.State rep. by
The Inspector of Police,
Thiruvegamputhur Police Station,
Sivagangai District.
(Crime No.162 of 2021)

2.Chandra

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records relating to the FIR in Crime No.162 of 2021 dated 21.07.2021 on the file of the Inspector of Police, Thiruvegamputhur Police Station, Sivagangai District and quash the same as against the petitioner.

For Petitioner : Mr.G.Karuppasamy Pandian
for Mr.T.Veerakumar

For R1 : Mr.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

Seeking to quash the FIR in Crime No.162 of 2021 of Thiruvegamputhur Police Station, Sivagangai District, the present Criminal Original Petition is filed by A1.

2. The case of the prosecution in a nutshell is as follows:

(i) On 21.07.2021 at about 12.30 hours, the Village Administrative Officer (VAO) of Marani Village, Devakottai Taluk, gave a complaint with the Sub-Inspector of Police of Thiruvegamputhur Police Station stating that she saw in TV and Whatsapp that a sand-laden lorry and a car after passing the Sarugani check post were proceeding towards Sarugani. Though the police officials chased the sand-laden lorry and the car, they could not catch them. The Village Administrative Officer subsequently came to know that the drivers of the lorry and car, are one Vijay (A1) and Prabhu (A2) respectively.

(ii) Based on the complaint lodged by the Village Administrative Officer, an FIR in Crime No.162 of 2021 was registered by the Sub-Inspector of Police



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against the petitioner (A1) and Prabhu (A2) for the offences punishable under Sections 279, 336, 353 & 379 of IPC and Section 21(4) of the Mines and Minerals (Development & Regulation) Act, 1957.

3. Mr.G.Karuppasamy Pandian, learned counsel for the petitioner would contend that the Village Administrative Officer had lodged the complaint on 21.07.2021 for the alleged offence that took place 20 days back. His further contention is that the contention of the prosecution that two police men of Thiruvegamputhur Police Station chased the lorry and the car, but, could not catch them, cannot be accepted for the simple reason that they did not inform the same to the higher police officials. The police also did not take steps to seize the lorry and sand from the owner/driver of the lorry.

4. He relied on the decision of the Hon'ble Supreme Court in ***State of Haryana and others Vs. Bhajan Lal and others***, reported in ***1992 Supp (1) Supreme Court Cases 335*** and contended that where the allegations in the FIR or in the complaint, even if they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence or make out a case against the accused, the FIR is liable to be



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quashed. His further contention is that in the instant FIR, the allegations are so absurd and inherently improbable. He therefore prayed for quashing the FIR in Crime No.162 of 2021.

5. Per contra, Mr.R.M.Anbunithi, learned Additional Public Prosecutor for the first respondent would contend that though the FIR was filed belatedly, the police had done the investigation which revealed that A2 took the lorry inside the forest and unloaded the sand. The final report is also made ready in the instant case. He filed a copy of the final report before this Court.

6. It is pertinent to point out that in the FIR, it is stated that a lorry and a car without any registration numbers passed Sarugani check post and two police men attached to Thiruvegamputhur Police Station followed the lorry and the car in their two wheeler bearing registration number TN 63 CZ 1212. However, they failed in their attempt and it is not known as to why they did not alert the nearby police station to intercept the lorry and the car. They did not also inform their higher police officials immediately in this regard. In the FIR, the name of the police men who followed the vehicles has not been indicated.



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7. It is also seen from a copy of the final report that after the registration of FIR, one Suresh who is the driver of the lorry was included as A3. The present petitioner (A1) is the owner of the lorry. Though it is contended that lorry was fully loaded with sand, the sand was not recovered from A2 and A3. According to the prosecution, the sand was unloaded in a forest. However, the forest area has not been indicated in the final report. A perusal of the final report shows that the police did not go to the concerned forest area to recover the sand and the reason for the same has also not been indicated in the final report. In the circumstances, the decision of the Hon'ble Supreme Court in **Bhajan Lal and others** cited *supra* squarely applies to the facts of the present case. Therefore, the FIR in Crime No.162 of 2021 of Thiruvegamputhur Police Station is quashed as far as the present petitioner (A1) is concerned.

8. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

26.03.2024

Index: Yes/ No
Neutral Citation: Yes / No
Speaking Order / Non-Speaking Order
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To:

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- 1.The Inspector of Police,
Thiruvegamputhur Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.HEMALATHA, J.

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