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**Crl.O.P.(MD) No.12345 of 2024**

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.08.2024

Pronounced on : 08.08.2024

CORAM

**THE HON'BLE MR.JUSTICE B.PUGALENDHI**

CRL.O.P (MD) No.12345 of 2024

and

CRL.M.P (MD) No.7665 of 2024

1.Jeyaprakash

2.Vijayakumar

3.Shanmugam

...Petitioners

Vs.

1.The Sub Inspector of Police,  
Nainarkoil Police Station,  
Ramanathapuram  
(Crime No.131 of 2024)

2. The Director General of Police,  
Dr.Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.  
**(\*R2 is suo-motu impleaded by this Court,  
vide order dated 08.08.2024)**

...Respondents

**PRAYER:** Criminal Original Petition filed under Section 482 of Cr.P.C,  
praying to call for the records of the pertaining to the impugned FIR filed



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under Crime No.131 of 2024, on the file of the second respondent police and to quash the same as illegal.

For Petitioners : Mr.K.R.Laxman

For Respondents : Mr.M.Sakthi Kumar  
Government Advocate (Crl.Side)

### **ORDER**

The petitioners are accused in Crime No.131 of 2024, which is pending on the file of the respondent police have filed this application seeking to quash the impugned FIR, which is registered as against them.

2.The said criminal case was registered on 15.07.2024 by the respondent police as against the petitioners for the offence under Sections 303(2) BNS, 2023 and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957.

3.The case of the prosecution is that based on the secret information received by the respondent police, they went to the place of occurrence along with the Village Administrative Officer concerned and the Village



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assistant and found that the accused were illegally uploading two units of brick soil in the lorry bearing Registration No.TN 65 P 1005. The owner of the vehicle is one Shanmugam, who has hired the lorry to one Jeyaprakash. Hence the case.

4.The learned Counsel appearing for the petitioners submits that this case has been foisted as against the petitioners to meet out the target fixed by the Deputy Superintendent of Police concerned. According to him, on 15.07.2024 at about 12.00 pm, Mr.Nagasamy, Sub Inspector of Police along with one Mr.Bala Murugan, Police Constable, have visited the first petitioner's chamber and enquired whether they have committed any offence of theft of mineral. At about 12.45 pm, the Inspector of Police, Nainarkovil Police Station along with two Police Constables, namely, Muniyasamy and Lakshmanan have requested the first petitioner to spare a lorry for registering a case that he is having pressure from the Deputy Superintendent of Police concerned to register certain cases under the provisions of Mines and Minerals (Development & Regulation) Act. The first petitioner is said to have refused to spare any such lorry. But the police officers themselves have taken the lorry bearing Registration No.TN 65 P 1005, which came to



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first petitioner's chamber for loading the bricks. According to him, the Police men themselves have operated the lorry and the JCB, which were available in the place of occurrence and loaded the sand available from their premises in the said lorry, taken the same and registered the criminal case. This according to the learned Counsel appearing for the petitioner has been recorded in the CCTV, which is available in the first petitioner's chamber. The petitioners have also produced a pen drive covering the CCTV footages on 15.07.2024 from 12.00 pm onwards. Apart from that, they have also filed certain photographs in the typed set of papers.

5.The learned Counsel appearing for the petitioner has also demonstrated comparing the FIR registered in Crime No.131 of 2024 and the CCTV footage that the FIR was registered for the occurrence took place on 15.07.2024 at 10.00 am in S.No.133/1B, wherein, the lorry was seized by the respondent police from the first petitioner's premises, which is 800 meters away from the place of occurrence and the vehicle is also an empty vehicle standing idle in the premises for the purpose of loading bricks. In that lorry, the police officers themselves have loaded the soil, which was in the first petitioner's chamber and registered the case.



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6.The minerals are the natural resources provided by the Mother Earth to the humanity. However, the same is exploited indiscriminately by certain greedy people. Indiscriminate mining activities is causing an impact on the environment and also leading to natural disasters. Already, this Court in ***Crl.O.P(MD)No.13334 of 2020*** and batch etc, ***Balu @ Balasubramanian Vs. Inspector of Police, Thakkolam Police Station, Vellore District***, has passed a detailed order that grant of anticipatory bail for the offence registered under the Mines and Minerals (Development & Regulation) Act has to be denied. The vehicle, which is involved in the illegal quarry activity is liable to be seized under Section 21(4) of Mines and Minerals (Development & Regulation) Act and the vehicle if any seized is also liable to be confiscated under Section 21(4)(4) of the said Act. Therefore, registering a case under the Mines and Minerals (Development & Regulation) Act would certainly create an impact on the accused with consequences.

7.The learned Counsel appearing for the petitioners in this case has demonstrated before this Court with the CCTV footage that the vehicle has



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been taken only from the first petitioner's chambers at about 01.00 pm, whereas, the FIR in Crime No.131 of 2024 is at 10.00 am.

8.This Court by order dated 01.08.2024, has directed the Superintendent of Police, Ramanathapuram District to conduct an enquiry and to file a report before this Court. This Court has also directed the first petitioner to submit the CCTV footage to the Superintendent of Police, Ramanathapuram District. The Superintendent of Police, has conducted the enquiry and filed a report before this Court, which is extracted as under:

*9. Based on the careful analysis of available documents, it has been found that*

*1 The police party went to raid based on secret information received from a source that illegal mining is going on Gangaikondan Village Survey No. 133/18. This was corroborated by the Inspector Pandian saying "நான் வச்சி தான் வந்திருக்கேன்", First Information Report, Observation Mahazar and statements*

*2. The owner of Gangaikondan Village Survey No. 133/18 is Tr.J. Karpoorasundarapandian, who is son of Tr.P.Jeyaprakash (petitioner 1). The careful perusal of affidavit, typed set filed, submission made by the petitioner's counsel before the Hon'ble Court shows that this fact was not admitted by the petitioner that the Survey No. 133/1B mentioned in the FIR belongs to his own son.*

*3. The Prakasam Chamber Registration Certificate is*



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*in the name of Tr.V. Vinoth Kumar, who is the brother in law of the petitioner. Tr V. Vinoth Kumar is residing in Thiru Nagar, Madurai. I submit to state that the soil was legally mined from Survey No. 133/1B owned by petitioner's son and transported by the tipper lorry to Prakasam Chamber which is now managed by Tr P. Jeyaprakash Petitioner I/ Accused I*

*4. Special Sub Inspector of Police Tr. Nagasamy and Inspector of Police Tr. N. Pandian of Nainarkovil PS was interacting with Tr.P.Jeyaprakash and his son Tr.J. Karpoorasundarapandian. On careful perusal of the audio transcript and CCTV footage shows that*

*(a) Both police officers are demanding documents from the petitioners to show that they have necessary permission from the competent authority to mine Gangaikondan Village Survey No. 133/1B*

*(b) Conversations are like Record இருக்கா?, permit வாங்கி இருக்கீங்களா இப்பவே நாங்க ஏத்துட்டு போறோம், permit வாங்கின இடத்தை காமிங்க.*

*c.It is submitted that these conversations are in the nature of enquiry asking them to produce necessary documents showing permission. They are also polite that if necessary documents are produced they will leave the place.*

*d. Tr. P. Jeyaprakash says that he has a permit and based on the permit he has mined the land. The land watch was mined belongs to his son Tr.J. Karpoorasundarapendyan. Both are heard styling that they will produce documents. But both are yet to submit that permit from a competent authority authorizing them to mine Survey No 133/1B before the Hon'ble Court also.*

*5. I submit to state that, I deny the averments made in paragraph 5(b)(iii) vide CCTV footage File Name 3.mp4. The*



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*grounds mentioned in the above paragraph are blatantly false in the view of CCTV evidence produced.*

- a. None of the police party forced or coerced them*
- b. None of the police party insisted to spare a lorry*
- c. None of the police party spoke about booking a case to achieve the target (i.e., for statistical purposes)*
- d. None of the police party spoke about extraordinary pressure from the jurisdictional Deputy Superintendent of Police.*
- e. None of the police party threatens the petitioners that a series of cases will be registered on them.*

*10. I submit to state that, based on the above findings, Naimarkovil Police has not registered a false case against the petitioners in Crime Number 131 of 2024.*

9.The Superintendent of Police has also stated that the entire CCTV footage were not provided to him. The compact, which was provided by the first petitioner contains 6 video files, in which, the first file plays only for 64 seconds, the second file is for 34 seconds, the third file for 2 minutes and 17 seconds, the fourth file for 1 minute and 41 seconds, the fifth file is for 53 seconds and the sixth file is for 28 seconds. Therefore, according to the Superintendent of Police, Ramanathapuram, the entire footage has not been provided by the first petitioner, for which, the learned Counsel appearing for the petitioners has filed a memo.

*"there were only two cameras installed in the chamber*



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*premises, which is for monitoring the entry and exit of the office room only.*

*5. It is humbly submitted that the cameras installed were "IMOU Wifi Camera" which is a basic model camera which costs around Rs. 1200.*

*A. The Said Camera has a memory card slot in the said camera itself wherein, it will record approximately 12 to 14 hours, depends upon the size of the recorded file.*

*B. It is humbly submitted that the footages of both cameras will start around 12.00 A.M on 15.07.2024 and will be ending around 01.50 P.M. on 15.07.2024.*

*C. On 15.07.2024, at 01:50 PM, after the scene of occurrence committed by the respondent police, in order to secure the evidence and in order to prevent the "Overlapping Recording", the said memory card was removed.*

*D. As the petitioner removed the cameras to secure the footage immediately after the police took the lorry and left the chamber premises, the video is available only till 01:50 PM.*

*E. Though the entire video which was recorded in Random by the Camera is submitted, the scene of occurrence starts at 12:00 PM and ends at 01:45 PM."*

10. The learned Counsel appearing for the petitioners submits that loading of soil with the JCB in the lorry was captured in a mobile camera with proper GPS time and date and there is no camera available in that direction. He further submits that the defacto complainant in Crime No.131 of 2024, namely, Manimaran, Sub-Inspector of Police and the Gangaikandan Village Administrative Officer and the Village Assistant



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concerned are not available in the CCTV footage. He has also filed the CCTV recordings and the mobile phone recordings with the memo in a pen drive along with certain photographs.

11.This Court has considered the rival submissions made.

12.The petitioners are accused in Crime No.131 of 2024. The case was registered only on 15.07.2024. The petitioner has made certain allegations as against the second respondent police that this case is a foisted one for the purpose of statistical purpose. In support of their contentions, the petitioners have also relied on the CCTV footage and certain photographs. The materials placed before this Court expose that the subject vehicle in Crime No.131 of 2024 bearing registration No.TN 65 P 1005 was taken from the first petitioner's chamber on 15.07.2024 at about 01.00 pm. However, the case in Crime No.131 of 2024 is that the vehicle was seized in the presence of the VAO and Village Assistant at 10.00 am at S.No.131/1B. According to the petitioners, the place of occurrence mentioned in FIR is 800 meters away from the first petitioner's chambers.



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13.Considering the materials available, this Court has directed the Superintendent of Police, Ramanathapuram to look into the issue and to file a report. The Superintendent of Police has filed his report stating that it is not a false case and none of the police party have forced or coerced the petitioners to spare a lorry as claimed by the first petitioner.

14.Without the knowledge of the Village Administrative Officer concerned and the local police, there cannot be any illegal quarry operations in the State. The Village Administrative Officer and the Inspector of Police are the part of the Task Force constituted at Taluk Level to prevent the illegal quarry operations. The Tahsildar, the Revenue Inspector are also form part of the Task Force team. If they conduct a periodical inspections, they can very well find out illegal quarry operations which are carried out in their respective jurisdictions.

15.There cannot be any movement of lorry with mineral without a valid permit issued by the Department of Geology and Mining. By conducting proper checking on the mineral loaded vehicles itself, the illegal quarry operations can be curtailed. But unfortunately, there is no proper



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mechanism is in vogue. The quantity of mineral quarried from each quarry can be easily identified by conducting a periodical survey. The officials of the Geology and Mining Department having nexus with the quarry operators are not doing the same. The quantum of quarry in each quarry if compared with the seigniorage fee paid by the quarry operators would easily expose the quantum of illegal quarry in this State. There is no political will and therefore there is no proper action has been taken. Most of the cases are registered only for statistical purpose. This can be identified from the fact that none of the vehicle which were seized for illegal quarry operations have been confiscated by the State so far. Though the provisions under Section 21(4)(4) of the Mines and Minerals (Development & Regulation) Act mandates for confiscation of vehicles involved in illegal transportation of minerals, to my knowledge not even a single vehicle seized in these cases were confiscated. Mere registration of the case would not serve the purpose. Only by taking appropriate steps for confiscation of the vehicles involved in these illegal quarry operations can be curtailed.

16.In this case, the petitioners have made out a *prima facie* case. Therefore, this Court is of the view, the back ground in which, the case in



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Crime No.131 of 2024, has been registered, needs to be investigated. The criminals cannot be spared and at the same time an innocent cannot be foisted with a case. The main concept of our criminal justice system itself is that even thousand culprits can escape but one innocent person should not be punished.

17. Therefore, this Court suo-motu impleads the Director General of Police, Dr. Radhakrishnan Salai, Mylapore, Chennai - 600 004, as the second respondent to this petition and directs the Director General of Police, Tamil Nadu, to withdraw the case in Crime No.131 of 2024 from the file of the first respondent police and entrust the same with the Deputy Superintendent of Police, CBCID, Madurai. The CBCID shall also conduct the investigation as to the manner, in which, the case in Crime No.131 of 2024 was registered.

18. The Deputy Superintendent of Police, CBCID, Madurai, shall file a report before this Court, within a period of three months, from the date of receipt of a copy of this order.



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19.With the above direction, this criminal original petition stands **disposed of**. Consequently, the connected miscellaneous petition is closed.

20.For reporting compliance, post the matter **after three months**.

**08.08.2024**

NCC : Yes/No  
Internet: Yes/No  
Index: Yes/No  
LR

To

1.The Sub Inspector of Police,  
Nainarkoil Police Station,  
Ramanathapuram

2.The Director General of Police,  
Dr.Radhakrishnan Salai,  
Mylapore, Chennai - 600 004.

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

**Copy to**

The Deputy Superintendent of Police,  
CBCID, Madurai District

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**B.PUGALENDHI, J.**

LR

Pre-Delivery Order made in  
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