



Crl.O.P.(MD)No.13898 of 2023

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 19.09.2024

CORAM:

THE HONOURABLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.O.P.(MD)No.13898 of 2023

Velusamy

... Petitioner/A3

vs.

Radhamagesh
The Inspector of Police,
Vadipatti Police Station,
Madurai District.
Crime No.1858 of 2020

... Respondent/Complainant

Prayer:- Petition filed under Section 482 of Cr.P.C., to call for the records relating to the charge sheet in Spl.S.C.No.56 of 2021 on the file of the Special District Court, Special Court to Deal with the Cases of offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, 1957, Madurai and quash the same as illegal sofar as the petitioner is concerned.

For Petitioner : Mr.M.Sivasankar

For Respondent : Mrs.M.Aasha
Government Advocate (Crl. Side)



Crl.O.P.(MD)No.13898 of 2023

ORDER

WEB COPY

The petitioner is facing trial in Spl.S.C.No.56 of 2021 on the file of the Special District Court, Special Court to Deal with the Cases of offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, 1957, Madurai.

2.The case of the prosecution is that when they intercepted the vehicle, the earth was quarried and has been transported without proper documents and therefore, they charged the petitioner under Section 379 of IPC r/w Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957. The petitioner is the third accused. He was the driver of the vehicle. Earlier, the accused No.1, 2 and 4 had approached this Court. It was the contention of the said petitioners that there was no illegality in transport of the mineral. In fact, the second accused was the contractor under the National Highways Authority of India and only after due permission and as per the request of the National Highways Authority of India alone, the mineral was transported. As a matter of fact, it is found that the accused persons are the Class-I Contractor and his employees. After finding that the earth was moved only for the road work and the fact



Crl.O.P.(MD)No.13898 of 2023

that the National Highways Authorities of India had even addressed the police officials, this Court had taken a view that the offences under Section 379 of IPC and Section 21(5) of the Mines and Minerals (Development and Regulation) Act, 1957, are not made out and quashed the case. The findings of the Court in Crl.O.P.(MD)No.14915 of 2021 dated 02.06.2023 in paragraph Nos.7 and 8 are extracted hereunder:

“....7.The third petitioner is a Contractor engaged by NHAI and NHAI has addressed the police officials supporting the petitioners. Considering the documents filed on the side of the petitioner, it is decided that the ingredients of Section 379 of IPC and Section 21(5) of Mines and Minerals (Development and Regulation) Act, are not attracted and hence, the proceedings in Spl.S.C.No.56 of 2021 on the file of the Judge, Special Court, Madurai, is liable to be quashed.

8.This Petition is allowed and the proceedings against the petitioners in Spl.S.C.No.56 of 2021 on the file of the Judge, Special Court to deal with the Cases of Offences in Contravention of the provisions of the Mines and Minerals (D&R) Act, Madurai, is hereby quashed. Consequently, connected Miscellaneous Petition is closed.”



Crl.O.P.(MD)No.13898 of 2023

WEB COPY

3.Since the final paragraph says that it is quashed only in respect of the petitioners, since this accused was not a petitioner in the earlier case, this petition is filed. When the matter has substantially been decided in favor of the accused and the proceedings itself is quashed, I am of the view that the same logic should be followed in respect of this petitioner also and accordingly, the Criminal Original Petition is allowed and the proceedings in Spl.S.C.No.56 of 2021 on the file of the Special District Court, Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, 1957, Madurai, shall stand quashed.

19.09.2024

NCC : Yes/No
sjj

To

- 1.The Special District Court, Special Court to Deal with the Cases of Offences in Contravention of the Provisions of the Mines and Minerals (D&R) Act, 1957, Madurai.
- 2.The Inspector of Police,
Vadipatti Police Station,
Madurai District.



Crl.O.P.(MD)No.13898 of 2023

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



WEB COPY



Crl.O.P.(MD)No.13898 of 2023

D.BHARATHA CHAKRAVARTHY, J.

sjj

Crl.O.P.(MD)No.13898 of 2023

19.09.2024