



Crl.O.P.(MD)No.20431 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

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Ramar

... Petitioner

Vs.

1.The State, Rep. by,
The Inspector of Police,
Kovilankulam Police Station,
Ramanathapuram District.
(Crime No.130 of 2020)

2.Chellapandiyan,
The Special Sub-Inspector of Police,
Kovilankulam Police Station,
Ramanathapuram District.

... Respondents

PRAYER : Criminal Original Petition filed under Section 447 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records pertaining to the charge sheet in C.C.No.148 of 2024, on the file of the District Munsif-cum-Judicial Magistrate Court, Kamuthi, Ramanathapuram District, and quash the same.

For Petitioner : Mr.B.Mahendrarajan



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For R1

: Mr.K.Sanjai Gandhi
Government Advocate
(Criminal side)

ORDER

The petitioner / Accused in C.C.No.148 of 2024, who is facing trial for the offence under Section 379 I.P.C., has filed this quash application.

2. The case against the petitioner is that on 28.07.2020, at about 12 noon, while the respondent Police were on patrol duty, they found the petitioner carrying three bags of river sand on his TVS XL bike bearing Registration No.TN-55-Z-8402. The respondent Police allege that the petitioner was transporting the sand for the purpose of selling it at a higher price. Hence, a case was registered.

3. The contention of the learned counsel for the petitioner is that in this case, there are five witnesses in total, of which, except for L.W.3, all the other witnesses are from the Police Department. L.W.1 and L.W.2 are presented as part of the patrol team, who were allegedly present during the search and seizure of the three bags of river sand. L.W.4 is the person



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who registered the F.I.R., and L.W.5 is the Investigating Officer. L.W.3, an Assistant Engineer from the Public Works Department, states that he examined the sand and determined its value to be around Rs.53/-.

4. The learned counsel for the petitioner further submits that the petitioner has been falsely implicated in this case. The petitioner was simply taking some sand, which was available at the location, to construct a toilet for his own use, and not for any commercial purpose. The Government of India's policy, under the Swachh Bharat Mission, mandates that each household should have a toilet. The petitioner had obtained permission from the local Panchayat for this construction, and he is being falsely accused of using the sand for trade. Further, though the alleged offence is said to have occurred on a public road at around 12 noon, no public witnesses were examined, and the respondent Police have not provided any explanation for the lack of public witnesses. Moreover, the charge sheet was filed on 22.05.2024, almost four years after the alleged occurrence, which is in violation of the time limit prescribed under Section 514 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (BNSS) [Section 468 Cr.P.C]. The trial Court, in its order, did not



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condone this delay or extend the limitation. Based on these reasons, the petitioner seeks the quashing of the case.

5. The learned Government Advocate (Criminal side) submits that the petitioner was caught transporting three bags of river sand during a routine check and was subsequently questioned. The petitioner could not provide an adequate explanation and was arrested. The river sand was seized and brought to the Police Station. L.W.3, an official from the Public Works Department, confirmed that the bags contained river sand and valued it at approximately Rs.53/-. The Government Advocate (Criminal side) explained that due to the unavailability of public witnesses, Police personnel were used as witnesses in the case.

6. The learned Government Advocate (Criminal side) also fairly acknowledges that no petition for condoning the delay has been filed before the trial Court. He further submits that there are no other similar cases against the petitioner.



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7. Considering the above submissions and on perusal of the materials, it is seen that the petitioner is at most accused of taking three bags of river sand for the purpose of constructing a toilet, in line with the Swachh Bharat Mission policy, which mandates that each household have a toilet. The sand, which was available in a nearby location, was likely taken by the petitioner for personal use and the same cannot be classified as smuggling or transportation of minerals for trade. Moreover, all the witnesses in this case are official witnesses, and no public witnesses have been examined, which raises significant doubts about the credibility of the statements made by the witnesses. Taking their statements as a whole, no offence appears to have been committed.

8. In view of the above observations, this Court quashes the proceedings against the petitioner in C.C.No.148 of 2024, pending before the District Munsif-cum-Judicial Magistrate Court, Kamuthi, Ramanathapuram District. Accordingly, this Criminal Original Petition is allowed.

NCC : Yes / No
Index : Yes / No
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- 1.The District Munsif-cum-Judicial Magistrate,
Kamuthi, Ramanathapuram District.
- 2.The Inspector of Police,
Kovilankulam Police Station,
Ramanathapuram District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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