



Crl.M.P.(MD)No.12938 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
(Criminal Jurisdiction)

Friday, the Twenty Ninth day of November Two Thousand and Twenty Four

PRESENT

The HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Crl.M.P.(MD)No.12938 of 2024

in

Crl.O.P.(MD)No.20877 of 2024

ANPON DEVADHAS

... PETITIONER/PETITIONER

Vs

1 THE STATE OF TAMIL NADU
THE INSPECTOR OF POLICE,
KARUNGAL POLICE STATION,
KANYAKUMARI DISTRICT.
CRIME NO.389/2020.

2 SUJI
THE VILLAGE ADMINISTRATIVE OFFICER,
MATHICODE,
KANYAKUMARI DISTRICT.

... RESPONDENTS/RESPONDENTS

Petition filed praying that in the circumstances stated therein and in the petition filed therewith the High Court may be pleased to Stay all the further proceedings in CC No.203/2024 pending on the file of Judicial Magistrate Eraniel with respect to petitioner pending disposal of this Criminal Original Petition.

Prayer in CRL OP(MD). 20877/ 2024 :

To call for the records in CC No.203/2024 pending on the file of Judicial Magistrate Eraniel and may be Quash the same with respect to petitioner and pass such further or other orders as this Honble Court.



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Order : This petition coming up for orders on this day, upon perusing the petition filed in support thereof and upon hearing the arguments of M/S.BALAKRISHNAN.A, Advocate for the petitioner and of MR.K.SANJAI GANDHI, Government Advocate(Crl.side) on behalf of the Respondent No.1, while admitting the Criminal Original Petition the court made the following order:-

Mr.K.Sanjai Gandhi, learned Government Advocate (Criminal side) takes notice for the respondents.

2. The petitioner, who is facing trial in C.C.No.203 of 2024, is charged for the offences under Section 379 of the Indian Penal Code (I.P.C.) and Section 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957, has filed the quash petition.

3. The contention of the learned counsel for the petitioner is that following a family partition (Document No.2639/2020, dated 21.11.2020), the petitioner acquired several properties located in Survey Nos.748/17B, 810/3, 770/10, 770/11, 770/2, and 781/1. After acquiring these properties, the petitioner began levelling the land for personal use and used red soil from his own land in Survey No.748/17B. However, the Village Administrative Officer has accused the petitioner of illegally mining and transporting red soil from his property with the intention of selling it, thus, committing theft of red soil worth Rs.1,00,000/-.

4. The learned counsel for the petitioner submitted that the red soil was being



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used for personal purposes (levelling the land), and there is no evidence to support the claim of theft. The learned counsel for the petitioner further submitted that a person cannot be accused of stealing from his own property. Further, the learned counsel points out that the prosecution has not provided any specific details, such as the volume of soil taken, the exact location from where the soil was removed, or how the alleged theft occurred.

5. Considering the above submissions and on perusal of the materials, it is seen that it is not possible for a person to commit theft on their own property. The prosecution has failed to provide substantive evidence to support the theft allegation, such as the amount of soil taken or any documentation proving the alleged illegal activity. Hence, this Court is inclined to grant an order of interim of stay of all further proceedings in C.C.No.203 of 2024, pending on the file of the Judicial Magistrate Court, Eraniel. Accordingly, interim stay is hereby granted.

sd/-
29/11/2024

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/12/2024

Sub-Assistant Registrar (CS-I / II /III/ IV)
Madurai Bench of Madras High Court,
Madurai - 625 023.

smn2



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TO

- 1.THE JUDICIAL MAGISTRATE ERANIEL
 - 2 DO THROUGH THE CHIEF JUDICIAL MAGISTRATE,
KANYAKUMARI DISTRICT @ NAGERCOIL.
 - 3.THE INSPECTOR OF POLICE,
KARUNGAL POLICE STATION, KANYAKUMARI DISTRICT.
 - 4 THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.
- +1 CC to M/s.A.BALAKRISHNAN, Advocate (SR-14802[I] dated 02/12/2024)

ORDER

IN

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in

Crl.O.P.(MD)No.20877 of 2024

Date :29/11/2024

RK/VR(04/12/2024) 4P / 6C

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