



Crl.O.P.(MD)No.19986 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.01.2025

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.19986 of 2024
and Crl.M.P(MD).No.12340 of 2024

Augustin

.. Petitioner

Vs.

1.State of Tamil nadu
rep., by The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.
Crime No.57 of 2023

2.Pratheepa

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records relating to the charge sheet in CC.No.415 of 2023 on the file of the learned Judicial Magistrate No.1, Kuzhithurai and quash the same as illegal, in so far as this petition is concerned.

For Petitioner
For R1

: Mr.M.Manikandan
: Mr.K.Sanjai Gandhi
Government Advocate(Crl.Side)



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ORDER

The petitioner, who is A1 and facing trial in CC.No.415 of 2023 for the offence under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act, had filed this quash petition.

2. The primary ground raised by the petitioner is that the petitioner on 08.03.2023 had entrusted the land for two years to one Sundarrajan to remove the stones in levelled area and thereafter, to develop the property and the stones to be removed by manually, not by using any explosive, for which, the petitioner had also paid Rs.2,00,000/- to the said Sundarrajan. This being so, the case has been registered against Sundarrajan as A2 and Sujin as A3, as if on 12.04.2023 at about 10.45 am., without Government permission, the stones value Rs.7,500/- have been removed from the petitioner's property using tractor compressor. He further submitted that as per the judgment of the Hon'ble Division Bench of this Court in the case of *Sengol and others Vs., State* reported in **2012 Crl.J 1705**, the case under Mines and Minerals Act cannot be registered and investigated by the police, since it is the non-cognizable offence and it is only an authorised officer under the Act to file a private complaint. Hence, charge against the petitioner under the Mines and Minerals Act to be quashed. With regard



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to the charge under Section 379 of IPC, since the petitioner had already entrusted the property to Sundarrajan/A2, case against him may be quashed.

3. The learned Additional Public Prosecutor fairly submitted that as against the offence under Section Mines and Minerals Act, the same can be quashed, since only a private complaint can be filed. As regards the petitioner's contention under Section 379 of IPC letting out the property for two years to the custody of Sundarrajan for payment of Rs.2,00,000/-, the same can be considered, if the petitioner submits a copy of the document and on verifying the genuineness of the same, appropriate steps would be taken. If required, further investigation petition would be filed and the petitioner's name can be dropped.

4. In view of the above, the petitioner shall appear before the respondent police and hand over the originals, if not handed over before, to the respondent and thereafter, the respondent police to conduct investigation. Till such time, proceeding in CC.No.415 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai is hereby stayed. Accordingly, Crl.M.P(MD).No.12340 of 2024 is allowed.



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5. With the above direction, this Criminal Original Petition is disposed of.

03.01.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
Rmk

To

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



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M.NIRMAL KUMAR,J.

Rmk

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