



Crl.O.P.(MD)No.16573 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.02.2026

CORAM:

**THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
and
THE HONOURABLE MRS.JUSTICE R.KALAIMATHI**

**Crl.O.P.(MD) No.16573 of 2019
and
Crl.M.P.(MD)No.9836 of 2019**

V.V.Titanium Pigments Private Ltd.,
Rep. by its General Manager (Project),
Mr.S.Parthipan, A.81, SIPCOT Industrial Complex,
South Veerapandiapuram Post,
Tuticorin - 628 002.

...Petitioner

Vs.

1.The Inspector of Police,
SIPCOT Police Station,
SIPCOT, Thoothukudi District.
(Crime No.441 of 2019)

2.M.Radhua

...Respondents

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C.
praying to call for the records relating to the FIR in Crime No.441 of
2019, on the file of the Inspector of Police, SIPCOT Police Station,
SIPCOT, Thoothukudi District and to quash the same.



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For Petitioner : Mr.Sricharan Rangarajn, Senior Counsel,
For Mr.J.Kingsly Solomon

For Respondents : Mr.Gnansekaran,
Govt. Advocate (Crl. Side) for R1.

ORDER

(By G.R.SWAMINATHAN, J)

Heard the learned Senior Counsel for the petitioner and the learned Government Advocate (Crl. Side) for the first respondent.

2.In the wake of import of ilmenite from Norway, the impugned FIR came to be registered against the petitioner. The goods in question were cleared pursuant to the interim order dated 24.10.2019 obtained in WMP(MD)No.19371 of 2019 in WP(MD)No.22615 of 2019 filed by the petitioner's custom's house agent. It reads as follows:-

“ The petitioner is the custom house agent and acting on behalf of the sixth respondent importer. The ship carrying Ilmenite H.S.Code 26.14.0000 is off the shores awaiting permission from the first respondent. The first respondent, through the impugned order dated 22.10.2019, refused permission, in view of clearance to be given by the State Authorities. According to the petitioner, as



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per Chapter-26, Section V of the Import Policy of the Government of India, there are certain minerals, for which, no permission need be obtained to import the same. According to him, to import Entry 2614 00 10-Illmenite, unprocessed, permission is not necessary. If importer pays the custom duty, he is entitled to import the same. The petitioner has also paid a sum of Rs.87,00,000/- [Rupees Eighty Seven Lakhs only] towards custom duty and he seeks to import the same. Whereas, the State authorities, namely the fourth and fifth respondents instructed the first respondent not to permit ship into the port without their orders.

2. On a reading of the order passed in W.P.(MD)No.20020 of 2017, dated 29.11.2017 [M/s.M.R.M.Ramaiya Enterprises Private Limited vs. The District Collector, Thoothukudi District], it is seen that the Court, in an earlier occasion, when Malaysia sand was imported, has observed as under:

“23.2. Further, the above provisions of the Mines and Minerals (Development and Regulation) Act, 1957, make it amply clear that the State Government(s) is/are given with such powers to make rules for regulating the grant of quarry leases, mining leases or other mineral concessions in respect of minor minerals and for purposes connected therewith and also to make rules for preventing illegal mining, transportation and storage of minerals. The words “transportation and storage” will have to be read harmoniously with the object of the enactment or empowerment of the states to enact rules, viz-a-viz to prevent illegal mining, quarrying or



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reconnaissance or prospecting operations. The words “transportation and storage” can only mean the transportation and storage of illegally mined minerals. When the parent act from which powers are derived does not deal with imports, the rules cannot framed in 1959 and 2011 cannot contemplate such a preposition when the import of natural sand has been permitted with a condition to obtain plant quarantine certificate from 2014 onwards.”

3. It is categorically explained that the State Government does not have power in the cases of imports. The Act, which is relied on by the fourth and fifth respondents, is Mines and Minerals (Development and Regulation) Amendment Act, 2015 [hereinafter called "the Act"]. Section 4 of the Act specifies general restrictions on undertaking, prospecting and mining operations. The impugned order does not disclose any mining operation or any rules made under the Act prohibiting import of major minerals. Whereas, it is submitted that the Ilmenite, which is imported, is a major mineral. It is only the Government of India can have objection. The first respondent can only insist on the berthing charges and demurrage charges payable to them. On payment of charges, the importer can import the mineral.

4. In view of the above, considering the prima facie case that there is no prohibition for importing the major mineral, the first respondent cannot deny berthing on the instructions of the fourth and fifth respondents. Hence, there shall be an order of interim stay of the impugned order of the first respondent dated 22.10.2019 till 15.11.2019.



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5. *Post the matter on 15.11.2019.*

6. *The learned counsel appearing for the first respondent is directed to inform the officials concerned about this order.”*

3.The interim order dated 31.10.2019 passed in WMP(MD)No.19738 of 2019 in W.P.(MD)No.22615 of 2019 is as follows:-

“Mr.A.Arivu Chandran, learned Standing Counsel takes notice for the first respondent; Mr.R.Aravindan, learned Standing Counsel takes notice for the respondents 2 and 3; Mr.K.Chellapandian, learned Additional Advocate General, assisted by Mr.J.Gunaseelan Muthaiah, learned Additional Government Pleader, takes notice on behalf of the respondents 4 and 5 and Mr.NGA.Natraj, learned counsel takes notice for the respondent No.6.

2.This Court vide its order dated 24.10.2019, directed the first respondent Port Trust to give berthing right to the ship, if it is otherwise in order. Accordingly, the first respondent has given berthing right to the ship. However, the petitioner comes with a grievance that even though the mineral was off-loaded, they were not permitted to transport the same outside the port by the Traffic



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Manager of the first respondent on the instructions of the District Collector.

3.Today, the learned counsel appearing for the first respondent would submit that they have given Gate Pass to the petitioner to transport the materials outside of the Port and the mineral is transferred to the godown of the sixth respondent.

4.Recording the statement of the learned counsel appearing for the first respondent, this interim injunction petition is closed. If the petitioner has any grievance about this order, he can revive this application.

5.Post the matter for hearing on 15.11.2019.”

In these circumstances, the very registration of FIR is an abuse of process. However, we propose to test if the ingredients of the offences for which the FIR was registered are present.

4.The FIR accuses the petitioner of having committed the offences under Section 420 and 379 of IPC and Section 21(1) and 21(4) of the Mines and Minerals (Development and Regulation) Act, 1957. Let us take them one by one. The Hon'ble Supreme Court in the decision



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reported in (2024) 12 SCC 181 (*A.M.Mohan v. The State rep.by SHO*)

held as follows :

“20. This Court in *R.K. Vijayasarathy v. Sudha Seetharam* [*R.K. Vijayasarathy v. Sudha Seetharam*, (2019) 16 SCC 739 : (2020) 2 SCC (Cri) 454 : 2019 INSC 216] has culled out the ingredients to constitute the offence under Sections 415 and 420IPC, as under: (SCC pp. 745-46, paras 15-20)

“15. Section 415 of the Penal Code reads thus:

‘**415. Cheating.**—Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do or omit if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation or property, is said to “cheat”.’

16. The ingredients to constitute an offence of cheating are as follows:

16.1. There should be fraudulent or dishonest inducement of a person by deceiving him:

16.1.1. The person so induced should be intentionally induced to deliver any property to any person or to consent that any person shall retain any property; or



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16.1.2. The person so induced should be intentionally induced to do or to omit to do anything which he would not do or omit if he were not so deceived; and

16.2. In cases covered by 16.1.2. above, the act or omission should be one which caused or is likely to cause damage or harm to the person induced in body, mind, reputation or property.

17. A fraudulent or dishonest inducement is an essential ingredient of the offence. A person who dishonestly induces another person to deliver any property is liable for the offence of cheating.

18. Section 420 of the Penal Code reads thus:

‘420. Cheating and dishonestly inducing delivery of property.—

Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter or destroy the whole or any part of a valuable security, or anything which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.’

19. The ingredients to constitute an offence under Section 420 are as follows:

19.1. A person must commit the offence of cheating under Section 415; and

19.2. The person cheated must be dishonestly induced to

(a) deliver property to any person; or

(b) make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security.



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20. Cheating is an essential ingredient for an act to constitute an offence under Section 420.”

21. A similar view has been taken by this Court in *Archana Rana v. State of U.P.* [*Archana Rana v. State of U.P.*, (2021) 3 SCC 751 : (2021) 2 SCC (Cri) 535 : 2021 INSC 135] , *Deepak Gaba v. State of U.P.* [*Deepak Gaba v. State of U.P.*, (2023) 3 SCC 423 : (2023) 1 SCC (Cri) 714 : 2023 INSC 1] and *Mariam Fasihuddin v. State of Karnataka* [*Mariam Fasihuddin v. State of Karnataka*, (2024) 11 SCC 733 : 2024 SCC OnLine SC 58 : 2024 INSC 49] .

22. It could thus be seen that for attracting the provision of Section 420IPC, the FIR/complaint must show that the ingredients of Section 415IPC are made out and the person cheated must have been dishonestly induced to deliver the property to any person; or to make, alter or destroy valuable security or anything signed or sealed and capable of being converted into valuable security. In other words, for attracting the provisions of Section 420IPC, it must be shown that the FIR/complaint discloses:

- (i) the deception of any person;
- (ii) fraudulently or dishonestly inducing that person to deliver any property to any person; and
- (iii) dishonest intention of the accused at the time of making the inducement.”



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The petitioner had validly imported the goods from Norway. After the goods reached the Indian shores, the Port Trust informed the District Collectors concerned about the arrival of the goods. The District Collector, Tuticorin called upon the Port Trust not to release the goods. That led to filing of writ petitions both by the importer as well as their customs house agent. The writ petitions produced outcomes favorable to the importer and against the District Administration. Nowhere there has been any deception or fraudulent or dishonest inducement of any person to deliver any property. The property is that of the petitioner. Nothing belonged to the complainant. The FIR does not indicate who has been cheated by the petitioner. An act of import through a proper channel cannot constitute cheating. To attract the offence of cheating, there must be a fraudulent or dishonest inducement. Even the nature of inducement is now known, let alone its fraudulent or dishonest character. The FIR is silent as to what was done pursuant to the so called inducement. Section 420 will apply only if it is shown that a false representation was made and on the strength of such false representation, the victim had altered

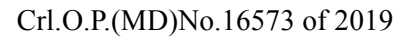


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his position. We fail to understand who has been deceived. We have no hesitation to conclude that the offence of cheating is not attracted.

5.The next question that calls for consideration is whether the offence of theft is made out. The elementary ingredient of this offence moving of the goods from the possession of the complainant without his consent (vide *AIR 1979 SC 1825, State of Maharashtra v. Vishwanath Tukaram Umale*). The goods in question were never in the possession of the complainant. They were imported, kept in the port trust premises and then moved to the petitioner's godown pursuant to the order of this Court. This Court had held that the consent of the District Collector or the State level authorities is not required for transporting the goods in question. Since the District Administration never had possession of the imported goods, the question of moving them from their custody did not arise at all. Hence, the offence of theft is also not attracted.

6.Failure to obtain a transit pass is said to be cause of action for registering the FIR. Vide order dated 03.02.2026 in W.A.(MD)Nos.363,



7. The Hon'ble Supreme Court in *State of Haryana v. Bhajan Lal* (1992 Supp.(1) SCC 335) laid down a set of parameters for quashing FIRs in exercise of power under Section 482 of Cr.Pc to prevent abuse of the process of any court. One of the circumstances is where the allegations made in the FIR, even if they are taken at their face value and accepted in their entirety, do not prima facie constitute any offence or make out a case against the accused, the FIR can be quashed. The aforesaid principle is squarely applicable to the case on hand.



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8.In these circumstances, the very registration of FIR is an abuse of process. The impugned FIR is quashed and the criminal original petition is allowed. Consequently, connected miscellaneous petition is closed.

(G.R.S. J.,) & (R.K.M. J.,)
03.02.2026

NCC : Yes/No
Index : Yes / No
Internet : Yes/ No
ias/skm

To:

The Inspector of Police,
SIPCOT Police Station,
SIPCOT, Thoothukudi District.



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G.R.SWAMINATHAN, J.
and
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