



CrI.O.P.(MD)No.12737 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **17.07.2023**

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

CrI.O.P.(MD)No.12737 of 2023
and CrI.M.P(MD).No.9991 of 2023

Nicholas

... Petitioner

Vs.

1.The State rep.by
The Inspector of Police
Prohibition Enforcement Wing,
Kovilpatti,
Thoothukudi District
Crime No.323 of 2023.

2.Senthil Arumugam

... Respondents

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records in Crime No.323 of 2023 on the file of the first respondent and quash the same as illegal.

For Petitioner : Mr.R.Karunanidhi

For Respondents : Mr.S.S.Madhavan
Government Advocate (crl.side)



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ORDER

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This Criminal Original Petition has been filed seeking quashment of FIR in Crime No.323 of 2023 pending on the file of the first respondent Police.

2. It is submitted by the learned counsel appearing for the petitioner that the defacto complainant, who is the Head Constable of Prohibition Enforcement Wing, Kovilpatti and his team, on information that the petitioner was in possession of liquor more than permitted quantity, have apprehended the petitioner and confiscated Honda Destini bike bearing No.TN 96 F 8986 along with 20 bottles of 180 ML capacity of day night brandy from the possession of the petitioner. A case has been registered in Crime No.323 of 2023 for the offence punishable under Sections 4(1)(a) and 14A of the Tamil Nadu Prohibition Act, 1937, alleging that the petitioner is selling liquor for higher price.

3. The learned counsel appearing for the petitioner submits that as per the Tamil Nadu Liquor (Possession of Personal Consumption) Rules, 1996, an individual can possess upto 4.5 liters of liquor for personal



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consumption and since the petitioner was allegedly in possession of 20 bottles 180 ML capacity of liquor which comes to 36 liters only, hence, sought for quashment of the FIR in Crime No.323 of 2023.

4. The learned Government Advocate appearing for the respondents Police submits that though as per the said Rules, the individual can have 4.5 liters of liquor and the petitioner was in possession of 3600 liters which is less than permitted limits, the petitioner was possessing the liquor illegally, with an intention to sell the same for higher price.

5. The amended Rule of the Tamil Nadu Liquor (Possession of Personal Consumption) Rules, 1996, permits that a person can have possession of 4.5 liters of liquor for personal consumption. Though the allegation made against the petitioner is that he was selling the liquor for higher price, there is no record to show that the petitioner is keeping the liquor for selling the same for higher price. No person is complained that the petitioner is indulging in selling the liquor for higher price. When there is no record to show that the petitioner was holding the liquor for



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selling the same for higher price, it has to be presumed that he was holding the liquor for personal consumption. Further, when liquor is not prohibited and is available freely for Government fixed price without any license, why would anybody keep the liquor bottles for sale for higher price. This allegation is beyond the comprehension and cannot be accepted. Therefore, on this ground, the case made against the petitioner by the first respondent Police in Crime No.323 of 2023 is liable to be quashed and it is quashed.

6. Accordingly, this Criminal Original Petition is allowed.
Connected miscellaneous petition is closed.

17.07.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
ssb



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To

- 1.The Inspector of Police
Prohibition Enforcement Wing,
Kovilpatti,
Thoothukudi District
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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DR.D.NAGARJUN,J

ssb

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