



Crl. O.P. No. 8896 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2026

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl. O.P. No. 8896 of 2026

and

Crl. M.P. Nos. 6319 and 6320 of 2026

Rabiullah

... Petitioner

Vs.

The State Represented by
The Sub-Inspector of Police,
Jayankondam Police Station,
Udayarpalayam Taluk,
Ariyalur District.

... Respondent

Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita, 2023 to call for the entire records pertains in S.C.No.125 of 2024, pending on the file of Principal District Judge, Sessions Court, Ariyalur and to quash the same.

For Petitioner : Mr. R. Ramesh

For Respondent : Mr. Leonard Arul Joseph Selvam,
Additonal Public Prosecutor



ORDER

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The petitioner / accused, is facing trial in S.C.No.125 of 2024 for offences under Sections 6(a) and 24(1) of the Cigarettes and Other Tobacco Products Act and Section 328 IPC, has filed the quash petition.

2. The case against the petitioner is that on 13.11.2023, at about 8.00 a.m., the accused was found coming on a TVS XL two-wheeler bearing Registration No.TN 55 AV 1621. When he was stopped, enquired and searched, it was found that the petitioner was in possession of 195 packets of Hans and Gutka. Hence, a case has been registered.

3. The contention of the petitioner is that it is a put up case. The petitioner is running a small petty shop selling betel nuts and paan leaves. It is further projected that though the petitioner was allegedly caught in a public place, no independent public witness has been examined. All the witnesses in this case, except the forensic expert, are from the police department. The seizure mahazar has been drawn by LW1 and LW2, who are Grade-1 Police Constables.



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3.1. Further, the case of the petitioner is that after the seizure, he was taken to the police station and thereafter the FIR was registered. However, in the seizure mahazar, the crime number and the offences are already mentioned, which would clearly show that it is a put up case.

3.2. Further, it is submitted that the forensic expert's report confirms that only nicotine was found and no alkaline substance was deducted and that no poisonous substance affecting the health of others was found. It is also submitted that traditional tobacco products are not prohibited. In view of the same, the petitioner has prayed for quashing of the charge sheet.

4. The learned Additional Public Prosecutor for the respondent fairly submitted that in this case, the petitioner is a small-time petty shopkeeper who was found carrying paan leaves and betel nuts and during the search, Hans packets were seized only in the presence of police officials. He further submitted that the forensic expert has not deducted or found any poisonous or health-hazardous substance so as to attract an offence under Section 328 IPC.



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4.1. He further submitted that with regard to the gutka offence, the same is bailable and in such cases, fines are normally imposed on the accused. He also submitted that in the seizure mahazar, which was prepared at the place of occurrence, the crime number and the offence have been recorded.

5. Considering the submissions and upon perusal of the materials, it is seen that in the seizure mahazar, the crime number and the offence have been mentioned, whereas the FIR appears to have been prepared at a later point of time. The forensic report confirms that no poisonous or noxious substance was found. Further, there is no independent witness in this case for the arrest and seizure. Therefore, the seizure itself become doubtful, coupled with the fact that the forensic report confirms the absence of any poisonous substance.

6. In view of the above, this Court is inclined to quash the charge sheet against the petitioner.



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7. Accordingly, the case in S.C.No.125 of 2024 pending on the file of Principal District Judge, Sessions Court, Ariyalur, is quashed and this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

09.04.2026

Neutral Citation: Yes/No
AT

To

1.The Principal District Judge, Sessions Court, Ariyalur.

2.The Sub-Inspector of Police,
Jayankondam Police Station,
Udayarpalayam Taluk,
Ariyalur District.

3.The Public Prosecutor,
High Court of Madras.



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M.NIRMAL KUMAR, J.

AT

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