



CRL.OP.No.16917 of 2026

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-07-2026

CORAM:

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.OP.No.16917 of 2026
and CRL.MP.Nos.11224 & 11225 of 2026

Jafar Ali

..Petitioner(s)

Vs.

1. The State Rep By,
The Sub-Inspector of Police,
Jayankondam Police Station,
Udayarpalayam Taluk, Ariyalur District.
2. R. Nagarajan
Special Sub Inspector of Police-695,
Jayankondam Police Station,
Udayarpalayam Taluk, Ariyalur District.

..Respondent(s)

Prayer: Criminal Original Petition filed under Section 528 of BNSS, praying to call for the entire records pertaining to SC.No.128/2025, pending on the file of IInd Additional District Judge, Ariyalur and to quash the same as illegal.

For Petitioner(s):

Mr.R.Ramesh

For Respondent(s):

Mr.M.Mohamed Riyaz, (for R1)
Government Advocate (Crl. Side)



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ORDER

This criminal original petition has been filed seeking to quash the entire proceedings in S.C.No.128 of 2025, on the file of the learned IInd Additional District Judge, Ariyalur.

2. The prayer sought in this criminal original petition is innocuous in nature, and as such, this petition is disposed of at the admission stage itself, without ordering notice to the second respondent.

3. A perusal of the final report dated 11.07.2022 reveals that on 16.06.2022, the first respondent/police conducted a raid on the premises of the petitioner and found him in possession of 795 packets of hans tobacco, weighing 20 grams each. Consequently, a case was registered and the final report was filed for offences punishable under Sections 272, 273 and 328 of Indian Penal Code (IPC), Sections 6(a) and 24(1) of the Cigarettes and other Tobacco Products Act, 2003 (COTPA) and Section 77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 (JJ Act).



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4. The learned counsel appearing for the petitioner submitted that the prosecution has listed only three witnesses, out of whom, two are the seizing police officer and the mahazar witness, while the third is the Investigating Officer. He further submitted that there is absolutely no evidence on record to show that the petitioner sold tobacco products to any child. Therefore, the essential ingredients of the offence under Section 77 of the JJ Act, are not made out.

5. With reference to the other offences, the learned counsel placed reliance on the order of this Court dated 09.04.2026 passed in ***Rabiullah Vs. The State rep. by the Sub-Inspector of Police*** (CrI.O.P.No.8896 of 2026). In the aforesaid case, this Court quashed the proceedings considering that the accused was a petty shop owner and the forensic expert's report did not indicate any adulteration or poisonous substance. The learned counsel submitted that the petitioner herein is similarly placed and deserves the same relief.

6. *Per contra*, the learned Government Advocate (Criminal Side) appearing for the first respondent/police, vehemently opposed the petition.



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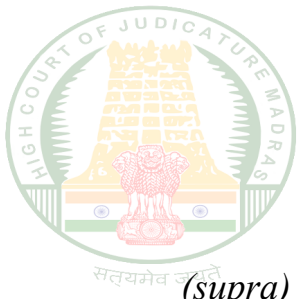
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He submitted that a *prima facie* case is clearly made out against the petitioner since a large quantity of banned tobacco products was seized directly from his premises.

7. Heard the rival submissions made on either side and perused the materials available on record.

8. Even if the argument of the learned counsel for the petitioner regarding the lack of evidence under the J.J Act is taken into consideration, the fact remains that a large quantity of banned tobacco products was found and seized from the petitioner's premises. The prosecution has cited the recovering officer and the mahazar witness to prove this recovery. Therefore, it cannot be held that there is no material evidence to prosecute the petitioner. If the factum of seizure from the premises is established during trial, the petitioner would, at the very least, face liability under the provisions of the COTPA.

9. In view of the above, this Court finds that this is not a fit case to invoke its inherent powers to quash the proceedings. The order in ***Rabiullah***



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(*supra*) relied upon by the petitioner is distinguishable on facts. That case involved a petty shop owner selling betel nuts and paan leaves. In contradiction, the petitioner herein was found in possession of 795 packets of hans tobacco weighing 20 grams each, indicating commercial trade. Hence, the same indulgence cannot be extended to the petitioner.

10. However, liberty is granted to the petitioner to raise all his grounds before the Trial Court during the course of the trial. While the main prayer to quash the proceedings cannot be countenanced, this Court, by taking into consideration the hardship pleaded, dispenses with the personal appearance of the petitioner before the Trial Court, except for those hearings where his presence is highly essential or mandatorily required by the Trial Court.

11. With the above observations and directions, this criminal original petition stands disposed of. Connected miscellaneous petitions are closed.

09-07-2026

Neutral Citation: No
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D.BHARATHA CHAKRAVARTHY,J.

Sni

To

1.The Sub-Inspector Of Police
Jayankondam Police Station,
Udayarpalayam Taluk, Ariyalur District.

2.The IInd Additional District Judge, Ariyalur.

3.The Public Prosecutor,
High Court of Madras.

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