

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 11.06.2015

Delivered on : 17.06.2015

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

CRL.O.P.No.32525 of 2013

and

M.P.No.1 of 2013

Lakshmi

...Petitioner

Versus

State: Represented by
Inspector of Police,
Vaitheeswaran Koil Police Station,
Nagapattinam District.

...Respondent

Criminal Original petition filed under Section 482 of the Criminal Procedure Code praying to call for the records in PRC.No.10 of 2010 in Crime No.386/2008 on the file of the Judicial Magistrate, Sirkali and to quash the same.

For Petitioner : Mr.R.John Sathyan

For Respondent : Mr.C.Emalias,
Addl. Public Prosecutor

O R D E R

Seeking a direction to quash the proceedings in PRC.No.10 of 2010 pending on the file of the learned Judicial Magistrate, Sirkali.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials placed on record.

3. It is seen that on 18.10.2008, officers of the Prohibition Enforcement Wing intercepted a Leyland lorry bearing registration No.TCT 5151 and on search, it was found to contain huge quantities of liquor. The police registered a case in crime No.386 of 2008 against three persons and seized the lorry.

4. The petitioner herein filed an applicaiton under Section 451 Cr.P.C for return of lorry claiming that she is the owner of the lorry. Thereafter, the police impleaded her as an accused and after completing the investigation filed a Final Report against six persons arraying this petitioner as 6th accused for offences under Section 10[i] of TNSPC Rule read with 11 of TNP Act and 4[1][aaa] read with 4[1][a] of TNP Act and 14[A] of TNP Act.

5. Mr.John Sathyan, learned counsel for the petitioner submitted that there is no incriminating material to implicate the petitioner and therefore, the prosecution against her deserves to be quashed.

6. On a careful perusal of the Final Report and accompanying documents, it is seen that this petitioner is the owner of the lorry and therefore, by virtue of Section 14[A] of TNP act, she is liable for prosecution. Section 14[A] of Tamil Nadu Prohibition Act, 1937, provides for a deeming fiction and reads as follows:

"14-A. Owner of animal, vessel, cart or other vehicle deemed to be guilty in certain cases - Where any animal, vessel, cart or other vehicle is used in the commission of any offence under this Act, and is liable to confiscation, the owner thereof shall be deemed to be guilty of such offences and such owner shall be liable to be proceeded against and punished accordingly unless he satisfies the Court that he had exercised due care in the prevention of the commission of such an offence."

Therefore, it is for the petitioner to establish in the trial that she is innocent and that she do not have the necessary mens rea, when she handed over her vehicle to the other accused.

7. In the result, the petition stands dismissed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar(CS-II)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Judicial Magistrate,
Sirkali.

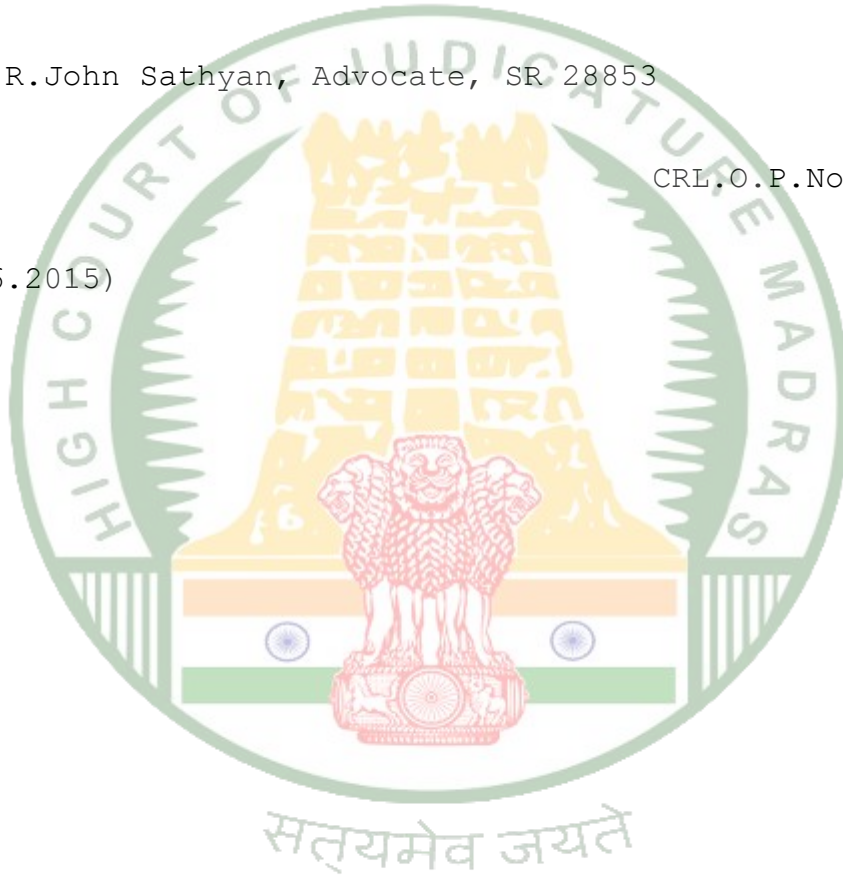
2.The Inspector of Police,
Vaitheeswaran Koil Police Station,
Nagapattinam District.

3.The Public Prosecutor,
High Court, Madras.

1CC to Mr.R.John Sathyan, Advocate, SR 28853

CRL.O.P.No.32525 of 2013

ALA (CO)
PSI (24.06.2015)



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