

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 27.03.2015****CORAM****THE HON'BLE MR.JUSTICE C.T.SELVAM****CRL.O.P. (MD) No.33 of 2015****WEB COPY**

1. R.PALANICHAMY

2. K.BALAMURUGAN

.. Petitioners/Accused 1& 2

Vs.

THE INSPECTOR OF POLICE,
PROHIBITION AND EXCISE WING,
SATTUR,
VIRUDHUNAGAR DISTRICT.

.. Respondents/Complainant

prayer

Criminal Original Petition filed under section 482 of the Code of Criminal Procedure, praying to call for the records in CC.NO.204/2014 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioner : Mr.N.Mohindden Basha
For Respondent : Mr.K.Anbarasan
Government Advocate(Crl. Side)

ORDER

Petitioners, who are arrayed as accused 1 and 2 in C.C.No.204 of 2014 on the file of learned Judicial Magistrate II, Virudhunagar, seek quash of proceedings thereof.

2.The prosecution case is that the Prohibition Enforcement Authorities conducted a search of vehicles on 17.04.2014 at about 08.00 a.m. and on receipt of information proceeded to M/s.Vijayalakshmi Flour Mill situated at kasthuribai Nagar, Rosalpatti, where they found the first accused offloading molasses from his tanker bearing Registration No.TN-02-L-2224. The license of the second accused/proprietor of M/s.Vijayalakshmi Flour Mill to hold molasses had expired on 31.03.2014. Enquiry revealed that first accused had taken the load of molasses on the pretext of supplying the same to M/s.Vijayalakshmi Cattle Feeder Company, Kovilpatti, of the third accused and offloaded the same at the concern of second accused whose license had expired. A charge sheet informing commission of offences u/s.4(i)(aaa) r/w 7-1(1) of the Tamil Nadu Molasses Control Regulations Act 1958 and 11 of the Transport Act, 1937, has been laid. The same has been taken cognizance of in C.C.No.204 of 2014 on the file of learned Judicial Magistrate II, Virudhunagar.



3. Heard learned counsel for petitioners and learned Government Advocate (crl. Side). Perused the counter filed by respondent.

4. Learned counsel for petitioner submitted that the father of second accused, who had held a license for possession of molasses, had expired on 31.07.2014. Even before his demise, he had applied for renewal of license by paying the requisite fees. The second petitioner was in no manner connected with M/s. Vijayalakshmi Flour Mill and Cattle Feed, which had been the proprietary concern of his father. First petitioner merely is a driver cum owner of the lorry used for transport and in the absence of charge of conspiracy, no offence as against this petitioner would be made out. The said submissions are stated only to inform that questions of fact are matters for trial and it always is open to the trial Court appropriately to alter the charges.

5. Learned counsel for petitioners was at great pains to inform that Section 4(i)(aaa) of the Tamil Nadu Prohibition Act, 1937, which deals with wrongful import, export, transport or possession of liquor of one hundred litres and above, could be invoked only in respect of liquor and not regards possession of molasses. Learned counsel contended that resort to Section 11 of the Tamil Nadu Prohibition Act, 1937, which dealt with punishment for offences otherwise not provided for, was erroneous. As earlier stated, it always is open to the Court trying the case appropriately to alter the charges in exercise of powers u/s. 216 Cr.P.C.

6. Sections 6-A and 11 of the Tamil Nadu Prohibition Act, 1937, read as follows:

"6-A. Control and regulation of molasses.- (1)

Except as otherwise provided in sub-sections (2) and (3), no person shall import, export, transport, sell or have in his possession any quantity of molasses.

(2) The State Government may, by general or special order, authorise any officer to grant licences for the import, export, sale or possession of molasses.

(3) The State Government may also authorise any officer to grant permits for the transport of molasses.

11. Punishment for offences not otherwise provided for.- whoever is guilty of any wilful act or intentional omission in contravention of any of the provisions of this Act or of any rule, notification or order made thereunder and not otherwise provided for in this Act, shall be punished with imprisonment which may extend to six months or with fine which may extend to five hundred rupees or with both."

A consideration of the facts and the above provisions leads this Court to the conclusion that there is no merit in this present



petition. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (co)

/True Copy/

Sub Assistant Registrar

rj2

To

- 1. THE INSPECTOR OF POLICE,
PROHIBITION AND EXCISE WING,
SATTUR,
VIRUDHUNAGAR DISTRICT.**
- 2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court
Madurai.**
- 3. The Judicial Magistrate
VIRUDHUNAGAR**

GCS/27/07/2015/3P/4C

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