

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.O.P. No.2017 of 2016
& Crl.M.P. Nos.1009, 1010 and 6365 of 2016

Ramesh

... Petitioner

Vs

1. State of Tamil Nadu
represented by
the Inspector of Police
Prohibition Enforcement Wing
Thiruvallur
Thiruvallur District
Crime No.427/2013

2. S. Sakthivel
Inspector of Police
Prohibition Enforcement Wing
Thiruvallur
Thiruvallur District

... Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to call for the entire records comprised in S.C. No.219 of 2015 pending on the file of the District and Sessions Judge, Thiruvallur District and quash the same.

For petitioner : Mr. Vimal B. Crimson

For respondents : Mr. C. Emalias
Additional Public Prosecutor

ORDER

This petition has been filed to call for the entire records comprised in S.C. No.219 of 2015 pending on the file of the District and Sessions Judge, Thiruvallur District and quash the same.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the State.

3. The facts of the case have been vividly narrated in the counter filed by Mr. K. Ramamoorthi, Inspector of Police, Prohibition Enforcement Wing, Thiruvallur, which read as under:

"2. It is submitted that the gist of the case is as follows:

The case of the prosecution is that Tr. Vasu - complainant/building owner of A1 lodged a complaint stating that the complainant having a building at SIDCO Industrial Estate which is in favour of his wife Sumathi. The wife of the complainant let the building premises to A1 i.e., Chandrasekar (A1) and fixed Rs.30,000/- as monthly rent and entered into a rental agreement with A1 from 03.09.2012 to run a research.

While so, on 17.07.2013, the complainant came to know that A1 was kept illegal possession of Methanol in the said premises. Hence, the complainant requested to take action against A1.

Based on the complaint, a case in PEW, Thiruvallur Crime No.427 of 2013 under Section 4(1)(aaa), 4(1-A) of TNP Act r/w 5 & 6 RS Rules, 1959 and 328 IPC was registered by Tr. Sakthivel, the then Inspector of Police on 17.07.2013 at 16.00 hours and taken up the case for investigation.

3. It is submitted that the then Inspector of Police visited to the scene of occurrence and prepared rough sketch and observation mahazar and found that A1 has kept 200 litres of Methanol illegally. Then, the Inspector of Police seized the contraband under cover of mahazar. The seized contraband was sent it for chemical analysis it reveals the Methanol contains altropine which is likely to cause death, are grievous hurt to the consumer.

4. It is submitted that on 29.07.2013, the then Inspector of Police arrested the Kothandan (A2) and recorded his confession statement that the subjected Methanol was purchased from the petitioner/accused (A3) which was delivered by the following persons, viz., Rameshbabu (A4), Raja (A5), Sridhar (A6). Subsequently, A3 to A6 were arrested by the then Inspector of Police. All of them were remanded to judicial custody.

5. It is submitted that further on 31.07.2013, the then Inspector of Police arrested A1 and recorded his confession statement and he was remanded to judicial custody.

6. It is submitted that during the course of the investigation, the then Inspector of Police came to a conclusion and deleted A4 to A6 in this case in Crime No.427/2013 on 09.12.2013 and deleted the section 5 & 6 of RS Rules and 328 IPC for A1 to A3.

7. It is submitted that after completion of the detailed investigation, the then Inspector of Police laid the charge sheet and submitted the same before the Judicial Magistrate Court-I, Thiruvallur on 16.12.2013. The said court has taken it on file vide P.R.C. No.6 of 2015 dated 15.06.2015 thereafter committed to Court of Sessions, Thiruvallur vide S.C. No.219 of 2015, dated 28.11.2015. Now, the case is pending trial and was posted for next hearing on 05.02.2016 for framing charges. . . ."

4. Challenging the prosecution, Ramesh (A3), has filed the present quash petition contending that there is no material worth its salt to show that he had sold the contraband to Chandrasekar (A1).

5. This Court perused the final report and the accompanying statements. The name of Ramesh (A3) figures in the police confession of Chandrasekar (A1) that has been recorded by the police in the presence of one Devaraj and Manikandan, wherein, it is stated that the seized Methanol was purchased from the petitioner. Other than this, there is no iota of material to show that this petitioner had sold the contraband to Chandrasekar (A1). No doubt, a police confession is invaluable to the Investigating Officer for proceeding further with the investigation. However, it does not have evidentiary value in a Court of law, in the light of Section 25 of the Evidence Act. There has also not been any seizure effected by the police from the petitioner for linking him with the alleged sale of Methanol to Chandrasekar (A1).

In view of the above, the present petition is allowed and the prosecution as against the petitioner in S.C. No.219 of 2015 is hereby quashed. Connected CrI.M.P. Nos.1009 & 1010 of 2016 are closed and the Impleading Petition dismissed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

To

1. The Inspector of Police
Prohibition Enforcement Wing
Thiruvallur, Thiruvallur District.
Crime No.427/2013
2. S. Sakthivel
Inspector of Police
Prohibition Enforcement Wing
Thiruvallur, Thiruvallur District.
3. The Public Prosecutor
High Court, Madras.

+1cc to M/s.Rathina Asohan, Advocate, S.R.No.

Crl.OP No.2017 of 2016

NM(CO)
CA(27/06/2016)



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