

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.07.2017

CORAM:

THE HONOURABLE MR. JUSTICE M.S.RAMESH

Crl.O.P.No.6636 of 2017

in

Crl.O.P.No 7904 of 2017

S.Rajkumar

... Petitioner/Accused-1

Vs.

State rep. by
The Inspector of Police
Meensurutti Police Station,
Ariyalur District,
Ariyalur-621 704.

... Respondent/
Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. to call for the records in PRC.No.13 of 2017 on the file of the learned Judicial Magistrate, Jayamkondam, Ariyalur District and to quash the same.

For Petitioner : Mr.K.Kannan

For Respondent : Mr.P.Govindarajan
Additional Public Prosecutor.

सत्यमेव जयते
ORDER

Challenging the proceedings in PRC.No.13 of 2017 on the file of the learned Judicial Magistrate, Jayamkondam, Ariyalur District, the present petition has been filed.

2.The brief facts of the case are as follows:

On 13.10.2016, when the petitioner along with two others viz., Karthik and Vinod were proceeding near Jayamkondam to attend a temple festival at Kallankurichi Village, Ariyalur and their car stopped due to lack of petrol. Karthik was sent to get petrol. During that time, a patrol came and enquired and taken them to the police station on 14.10.2016 and thereafter, they were taken to the learned Judicial Magistrate, Jayamkondam

and remanded to judicial custody for the offence under Section 4 (1)(a) Transport and 4(1-A) of TNP Act. Subsequently, the petitioner came to know that FIR has been filed against them stating that during patrol, the petitioner along with two others were found in possession of 35 bottles of Queen Club VSOP Brandy in their car.

3. Heard the learned counsel for the petitioner as well as the learned Additional Public Prosecutor for the respondent.

4. The learned counsel for the petitioner submitted that there is a clear violation of the provisions of the Tamil Nadu Prohibition Act as no destruction certificate was produced in this case and the official who had seized the contraband and said to have destroyed the contraband after obtaining the samples seem to be an official below the rank of an Inspector of Police and hence, contended that the proceedings in P.R.C.No.13 of 2017 on the file of the learned Judicial Magistrate, Jayamkondam, Ariyalur District is liable to be quashed.

5. Section 32 of the Tamil Nadu Prohibition Act, 1937 prescribes the procedure for destruction of a contraband liquor. As per the said provision, whenever a contraband is destroyed, it has to be destroyed as per the procedure prescribed for such destruction and a certificate from an officer for destruction has to be obtained apart from the destruction mahazar. Moreover, the contraband should be seized in the presence of a prohibition officer or any police officer, not below the rank of Inspector of Police. In the present case in hand, no destruction certificate was obtained in whose presence the samples were taken and apart from that, the officer who was present during the seizure was a Sub Inspector of Police and as such, there is a clear violation of Section 32 of the TNP Act and hence, the charges framed against the petitioner may not be sustainable. In view of the illegality committed in the FIR during the seizure and destruction, I am of the view that the proceedings in PRC.No.13 of 2017 on the file of the learned Judicial Magistrate, Jayamkondam, Ariyalur District is not sustainable.

WEB COPY

6.In fine, the proceedings in PRC.No.13 of 2017 on the file of the learned Judicial Magistrate, Jayamkondam, Ariyalur District is quashed. Accordingly, the Criminal Original Petition stands allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

DP
To

1.The Judicial Magistrate
Jayamkondam
Ariyalur

2.The Inspector of Police
Meensurutti Police Station,
Ariyalur District,
Ariyalur-621 704.

3. The Additional Public Prosecutor,
High Court, Madras.

+3 ccs to Mr.K.Kannan Advocate sr 51158

सत्यमेव जयते

Cr1.O.P.No.6636 of 2017

scd(co)
aa02/08/2017

WEB COPY