



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2017

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE S.S.SUNDAR

CRL.OP.(MD)No.12933 of 2017 and
CRL.M.P.(MD)Nos.8823 & 8824 of 2017

1. S.Shanmugam
2.V.Thirumoorthy ... Petitioners/Accused Nos.4 & 5

Vs.

1. The Inspector of Police,
Prohibition and Enforcement Wing(PEW),
Kumbakonam,
Thanjavur District. ... 1st Respondent/Defacto complainant

2.R.Dinakaran ... 2nd Respondent/Defacto complainant

PRAYER: Criminal Original petition is filed under Section 482 of Criminal Procedure Code, to call for the records relating to C.C. No.138 of 2015 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District and to quash the same as illegal.

For Petitioners : Mr.PR.Boomee Rajan

For R-1 : Mr.K.S.Duraipandiyan,
Additional Public Prosecutor.

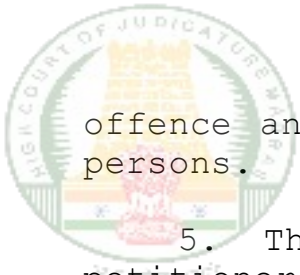
O R D E R

This Criminal Original petition is filed for quashing the criminal proceedings in C.C.No.138 of 2015 on the file of the learned Judicial Magistrate No.II, Kumbakonam, Thanjavur District.

2. Heard the learned counsel appearing for the petitioners and the learned Additional Public Prosecutor appearing for the first respondent.

3. The petitioners state that a case was registered in Crime No.446 of 2017 for the offences under Sections 24(A)(d) of Tamil Nadu Prohibition Act r/w 272 and 420 I.P.C., against the petitioners who were working as salesmen in a Tasmac shop.

4. The allegation against the petitioners is that at the time of inspection on 19.09.2013 the petitioners were found selling <https://hccs.courts.gov.in/services> water. The First Information Report clearly discloses a cognizable offence. The Charge Sheet also is in tune with the complaint and the Charge Sheet clearly discloses the



offence and is supported by the statements obtained from various persons.

5. The only contention of the learned counsel for the petitioner is that in the departmental proceedings, the petitioners were discharged and that therefore, the criminal case is liable to be quashed.

6. The statement of the learned counsel for the petitioners cannot be accepted as the petitioners at best can rely upon the departmental proceedings in support of their defence. The same is not conclusive. The allegation against the petitioners shows that the petitioners are guilty of serious offences. The criminal proceedings cannot be quashed on the basis of the statements or materials produced before this Court.

7. Since it is found that the Charge Sheet clearly discloses the cognizable offence, this Court at this stage cannot interfere and quash the proceedings, merely on the basis of the documents or other evidence produced before this Court, as the factual aspects can be gone into only at the time of trial. It is open to the respondents to rely upon any other material to prosecute the criminal case as against the petitioners. Hence, the Criminal Original petition is dismissed as devoid of any merits. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar(RTI)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.II,
Kumbakonam, Thanjavur District.
 2. Do through the Chief Judicial Magistrate,
Thanjavur District at Kumbakonam
 3. The Inspector of Police,
Prohibition and Enforcement Wing(PEW),
Kumbakonam, Thanjavur District.
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.PR.Boomee Rajan, Advocate, SR.No.81853
pmu
RL/6C/2P/SV/MMS/SAR1/13/10/2017

CRL.OP.(MD)No.12933 of 2017