



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 21.12.2017

CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Cr1.O.P.(MD)No.1623 of 2013
and
M.P.(MD)No.1 of 2013

1.J.Ponnusamy

2.P.Durai @ Johnson

... Petitioners/Accused Nos.1 to 2

Vs.

1.State represented by the
Inspector of Police,
Erwadi Police Station,
Tirunelveli District.
(Crime No.249 of 2012)

... 1st Respondent/ Complainant

2.Kingsley Devanand
Inspector of Police (In charge)
Erwadi Police Station,
Tirunelveli District.

... 2nd Respondent /De-facto
complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the proceeding in Cr.No.249 of 2012 on the file of the first respondent and quash the same.

For Petitioners
For Respondents

: Mr.T.A.Ebenezer
: Mr.K.Anbarasan
Government Advocate (Cr1. Side)
(for R1)
No appearance
(for R2)

ORDER

This Criminal Original Petition has been filed by the petitioners to call for the entire records pertaining to the proceeding in Cr.No.249 of 2012 on the file of the first respondent and quash the same.



The brief facts of the case as follows:-

2. The license was granted to the petitioner for manufacturing of 5 kgs of Gunpowder and 7.5 kgs of fire crackers at any one time per year at the premises described below subject to the Provisions of Explosives Act, 1984. Initially, the said license was granted on 12.12.1988 and it was expired on 31.03.1989. While being so, the first respondent conducted a surprise inspection in the petitioner's premises and he found that the petitioner without any proper licence is in possession of explosives. Thereby, the first respondent registered a case in Cr.No.249 of 2012 for the offences under Sections 9B-1A, 5 of Indian Explosives Substance Act. Thereafter, the first respondent conducted investigation and lodged the First Information Report based on the complaint lodged by the Inspector of Police, who is the second respondent herein. Against which, the present petition is filed.

3. Heard, the learned counsel appearing for the petitioner as well as the respondent.

4. On perusal of the license, it is seen that though the petitioner was granted license on 12.12.1988, periodically the said license was renewed up to 31.03.2013. The learned counsel appearing for the petitioner drawn the attention of this Court that the petitioner made application to renew the licence for the time of 01.04.2012 to 31.03.2013 till date no order was passed nor rejected. Hence, as per the rule as stated below the licence shall be deemed to be in force.

Rule 165(3) of Explosives Rules is extracted as below:

"Every application for the renewal of licence shall be made so as to reach the licensing authority or the authority empowered to renew the licence at least 30 days before the date on which the licence expires, and if the application is so made, the licence shall be deemed to be in force until such date as the licensing authority renews the licence or until an intimation that the renewal of the licence is refused has been communicated to the applicant."

5. During the pendency of the renewal application, the present FIR has been filed. However, subsequently the renewal application was processed by the competent authority i.e., District Revenue Officer and granted license from 01.04.2012 to 31.03.2013. The case was registered against the petitioner on 22.12.2012.

6. The competent authority renewed the license during the period. Hence, registering a case against the petitioner does not arise.



7. In the result, this criminal original petition is allowed and the FIR in Cr.No.249 of 2012 is quashed. Consequently, connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CSII)

/True Copy/

Sub-Assistant Registrar

To

1. The Inspector of Police,
Erwadi Police Station,
Tirunelveli District.

2. The Additional Public Prosecutor,
Madurai Bench of the Madras High Court,
Madurai.

+One cc to Mr. T.A. Ebenezer, Advocate, SR.No.94368

rmk

RL/4C/3P/KK/SAR1/23/1/2018

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and
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