



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 28.07.2017

CORAM

WEB COPY

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) .No.839 of 2011

and

M.P. (MD) No.2 of 2011

1.R.K.Nagarajan

2.R.K.Ramanathan

... Petitioners/Petitioners

-Vs-

1.The Inspector of Police,

Thanjavur P.E.W.Police Station,

Thanjavur.

Crime No.112/2007

... Respondent/Complainant

2.Senthilkumaran

... 2nd Respondent/Defacto Complainant

(R2 is impleaded as per the orders of
this Court made in M.P.No.1/2012
Crl.R.C. (MD) No.839/2011, vide its
order, dated 11.10.2012.)

Prayer : Criminal Revision Case filed under Section 397 and 401 of
the Code of Criminal Procedure, to set aside the order passed in
Cr.M.P.No.5812 of 2010 in C.C.No.130 of 2010, dated 08.08.2011 on
the file of the learned Judicial Magistrate No.I, Thanjavur.

For Petitioners : Mr.S.Ravi

For Respondent 1 : Mr.C.Mayilvahana Rajendran
Additional Public Prosecutor

O R D E R

Dismissing the discharge petition filed by the petitioner,
the present petition has been filed.

2.The petitioners are accused in C.C.No.130 of 2010, on the
file of the learned Judicial Magistrate, No.I, Thanjavur. Earlier,
a complaint has been filed by the respondent against the
petitioners for an offence under Section 24 and 24(A) of Tamil
Nadu Prohibition Act. The above complaint has been filed on the
ground that the petitioners herein being the Secretary and
Secretary of one Sri Sudarsana Club, Thanjavur, obtained a
FL-2 licence to run a bar in the club. While so, when an inspection
was conducted by the respondent police on 20.06.2007, they found a



large quantity of Indian made Foreign Liquor in the club, suspecting that the liquor are furious and they are stocking the liquor more than the permitted quantity, the respondent registered a case in Crime No.112 of 2007. Thereafter, the seized liquor was sent for chemical examination, in which it is proved that it is not spurious liquor. Hence, a final report has been filed for an offence under only Section 24 of the Tamil Nadu Prohibition Act, on the ground that they are possessing Indian made foreign liquor more than the permitted quantity. Thereafter, the petitioners filed a petition under Section 245 of Cr.P.C. to discharge them from the charges on the ground that the liquor possessed by the petitioners is within the permitted limit. But, without taking into consideration of the above fact, the Court below dismissed the application. Challenging the same, this revision has been filed.

3.I have heard Mr.S.Ravi, the learned counsel appearing for the petitioners and Mr.C.Mayilvahan Rajendran, learned Additional Public Prosecutor appearing for the first respondent and perused the records carefully.

4.The learned counsel appearing for the petitioners submitted that the petitioners' club is a registered club and they have also obtained FL-2 licence. As per the licence conditions, they were permitted to possess 500 units of Indian made Foreign Liquor. One unit of Indian made Foreign Liquor bottle is equal to 50 full bottles, containing 750 ML each. The petitioners are permitted to stock 500 units of Indian made Foreign Liquor and as per the proceedings of the District Collector, Thanjavur District, in Na.Ka.No.9190/2006 X-2, dated 22.04.2006, as one unit consists of 5 bottles of 750 ml liquor, they were permitted to stock 2500 full bottles consist of 750 ml of Indian made Foreign Liquor. But, what was seized from the petitioners' club was equal to 785 bottles of 750 ml of Indian made Foreign Liquor. Hence, there is no excess stock, as alleged by the respondent. Hence, there is no prima facie case made out against the petitioners in this case.

5.Per contra, the learned Additional Public Prosecutor appearing for the first respondent submitted that the petitioners are running a club and at the time of inspection, the respondent found large quantity of IMF liquor. Even though they have purchased the same from the TASMAL, they have been in possession more than the permitted quantity. Hence, a criminal proceeding has been initiated against them.

6.I have considered rival submissions.

7.From the perusal of a copy of the licence issued to the
<https://hcservices.in/hcservices> use (3) of the condition reads thus:

3.The quantity of liquor that may be possessed under the licence shall not exceed 500 (Five hundred



only) units at any one time; and the quantity that may be issued during the year or the period for which the licence is in force shall not exceed 3000 (Three thousand only) units.

8. As per the above condition, the petitioners are entitled to possess 500 units of Indian made Foreign Liquor at any one time. Apart from that, the proceedings of the District Collector in his proceedings in Na.Ka.No.9190/2006 X-2, dated 22.04.2006, stated that as per rule 34(4) of the Tamil Nadu Liquor (Licence and Permission) Rules 1951, one unit is equal to 3750 ml. Since the petitioners are permitted to hold 500 units of IMF liquor at one time ie, equal to 2500 full bottles of liquor containing 750 ml, what was found in the petitioners' club is less than the permitted quantity. In the above circumstances, since the petitioners possessed IMF liquor less than the permitted quantity, the charge against the petitioners is not maintainable and they are entitled to be discharged.

9. In the result, this Criminal Revision Case is allowed and the petitioners are discharged from the charges. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(T&P)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate No.I,
Thanjavur.
2. The Inspector of Police,
Thanjavur P.E.W. Police Station,
Thanjavur.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.K.GovindaRajan, Advocate, SR.NBo.68657

vs/lrs

RL/5C/3P/MR/KKR/SAR1/23/8/2017

Cr1.R.C(MD) No. 839 of 2011