

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.10.2018

CORAM:

THE HON'BLE MR. JUSTICE P.N. PRAKASH

Crl.O.P. No.23433 of 2018 & Crl.M.P. Nos.13164 & 13165 of 2018

1 Balakrishnan

2 Ganesan

...Petitioners/Accused 2 & 3

vs.

The State represented by
the Inspector of Police
G-2, Periamet Police Station (L & O)
Chennai
(Cr. No.915 of 2017)

...Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C. seeking to call for the records pending on the file of the II Metropolitan Magistrate, Egmore (Allikulam), Chennai charge sheet in C.C. No.6924 of 2018 and quash the criminal proceedings. (C.C. No.2186 of 2018 is amended as C.C. No.6924 of 2018 vide order dated 11.10.2018 passed in Crl.M.P. No.13706 of 2018)

For petitioners Mr. E. Kannadasan
for Mr. S.N. Kirubanandam

For respondent Mrs. M. Prabhavathi
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been preferred seeking to call for the records pending on the file of the II Metropolitan Magistrate Court, Egmore (Allikulam), Chennai in C.C. No.2186 of 2018 and quash the same.

2 The brief facts of the case are as under:

2.1 On 15.09.2017, around 8.00 a.m., the police party intercepted a motor cyclist during regular patrol duty and when questioned, his answers were evasive. He disclosed his name as

Parthiban. The police party checked his motor cycle and found that he was in possession of items banned under the Tamil Nadu Prohibition of Smoking and Spitting Act, 2003 (for short "the Act") viz., 40 boxes of Hans and 2,800 packets of Remo betel nut, etc. He was arrested and a case in Cr. No.915 of 2017 under Sections 9 (ii) and 7 of the Act read with Sections 353 and 506(I) IPC was registered against Parthiban. Thereafter, Anji Babu, his employer, was also arrested by the police.

2.2 During the interrogation of the arrested accused, it came to light that the accused have stored the said banned contraband at No.9/23, Karuppannan Street, Sowcarpet, Chennai. Pursuant to the disclosure, the police recovered the contraband from the aforesaid address under the cover of mahazar.

2.3 The police completed the investigation and filed a charge sheet in C.C. No.2186 of 2018 before the II Metropolitan Magistrate, Egmore, Chennai - 8 for the aforesaid offences against Anji Babu (A.1), Balakrishnan (A.2), Ganesan (A.3), Parthiban (A.4) and Sami (A.5), seeking quashment of which, Balakrishnan (A.2) and Ganesan (A.3) are before this Court.

3 Heard Mr. E. Kannadasan, learned counsel representing Mr.S.N.Kirubanandam, learned counsel on record for the petitioners and Mrs. M. Prabhavathi, learned Additional Public Prosecutor appearing for the respondent-State.

4 Mr. R. Kannan, P.C. 31292, G.2, Periamet Police Station is before this Court today.

5 The learned Additional Public Prosecutor brought to the notice of this Court that Anji Babu (A.1), Parthiban (A.4) and Sami (A.5) pleaded guilty to the charge on 11.09.2018 and they were fined Rs.1,500/- each by the Trial Court and that they had paid the fine and thereafter, the case in C.C. No.2186 of 2018 has been split up as C.C. No.6924 of 2018 as against Balakrishnan (A.2) and Ganesan (A.3).

6 Concededly, Ganesan (A.3) is the son of Balakrishnan (A.2) and the only allegation against them is that they are the owners of the premises at No.9/23, Karuppannan Street, Sowcarpet, Chennai, which they had rented out to Anji Babu (A.1). Apart from the confession of the accused, there is no other legally admissible evidence to implicate the involvement of Balakrishnan (A.2) and Ganesan (A.3) in the alleged offences that were committed by Anji Babu (A.1), Parthiban (A.4) and Sami (A.5).

In such view of the matter, the proceedings in C.C. No.6924 of 2018 (old C.C. No.2186 of 2018) on the file of the II

Metropolitan Magistrate Court, Egmore (Allikulam), Chennai is quashed and as a sequel, this Criminal Original Petition stands allowed. Connected Crl.M.Ps. are closed.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1 The Inspector of Police
G-2, Periamet Police Station (L & O)
Chennai
 - 2 The II Metropolitan Magistrate
Egmore (Allikulam)
Chennai
 - 3 The Public Prosecutor
High Court of Madras
Chennai 600 104
- +1cc to Mr.E.Kannadasan, Advocate, S.R.No.70956

Crl.O.P. No.23433 of 2018

RSI (CO)
GSP (12/11/2018)

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