



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.02.2018

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THE HONOURABLE MR. JUSTICE R.PONGIAPPAN

Crl.O.P.(MD).No.11448 of 2013
and
M.P.(MD)Nos.1 & 2 of 2013

R.Vimal Kannan

... Petitioner/ Accused No.3

Vs.

The State represented by
The Inspector of Police,
Kulasekharan Police Station,
Kanyakumari District.

... Respondent/ Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records pertaining to C.C.No.29 of 2013 on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District to quash the same.

For Petitioner	:	Mr.C.Jeganathan for M/S.Veera. Kathiravan
For Respondent	:	Mr.A.Rabinson Government Advocate (Crl. Side)

O R D E R

This Criminal Original Petition has been filed to call for the records pertaining to C.C.No.29 of 2013 on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District and to quash the same.

2.The petitioner herein is arrayed as A3 in C.C.No.29 of 2013 pending on the file of the learned Judicial Magistrate, Padmanabhapuram, Kanyakumari District. The respondent police laid a charge sheet against this petitioner and two other accused, for the offence punishable under Sections 4(1)(a), 4(i)(k), 4(1)(i) and Section 24 of Tamil Nadu Prohibition Act.

3.The first and foremost contention raised by the petitioner is that the petitioner is the erstwhile Secretary of Olympic Recreation Centre and on the date of the alleged occurrence, he is not in the said post. But, without noticing the said aspect, the respondent police has laid a charge sheet against the petitioner for the above said offence, stating that he had permitted to sell the liquor beyond the prescribed time limit.

4. On the other hand, the learned Government Advocate (Criminal Side) appearing for the State submitted that the respondent herein has laid a charge sheet only for the offence committed by the petitioner.

5. Now, on going through the copy of resolution passed by the Olympic Recreation Centre, dated 01.05.2012, it is seen that the petitioner herein has resigned from the post of Secretary and the same was accepted and thereafter, one Pandian was appointed as a Secretary of Olympic Recreation Centre. Further more, the District Registrar of Society has issued a receipt in favour of Olympic Recreation Centre dated 23.05.2012 in the name of the said Pandian only. In the above situation, the said occurrence was happened on 26.07.2012, after the date on which the petitioner herein has resigned from the post of Secretary on 01.05.2012 itself, so, there is no chance for purchasing the liquor on behalf of the Olympic Recreation Centre on the alleged date of occurrence, i.e 26.07.2012.

6. Now culminating the entire facts and circumstances, it would reveal that on the date of occurrence, the petitioner is not having any position in the alleged club. So, the charge sheet against the petitioner for the offence committed by the petitioner is nothing but abuse of process of law.

7. Accordingly, this Court is not having any hesitation to quash the charge laid by the respondent police against this petitioner in Crime No.294 of 2012. Accordingly, the Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar (W)

/True copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate, Padmanabapuram.
2. The Inspector of Police,
Kulasekharan Police Station, Kanyakumari District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

+1. CC to M/S. Veera Associates, Advocate SR.No.47026

**Cr1.O.P. (MD) .No.11448 of 2013 and
M.P. (MD) Nos.1 & 2 of 2013
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