



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.12.2019

CORAM

THE HON'BLE MR.JUSTICE P.RAJAMANICKAM

WEB COPY

CrI.O.P.No.32625 of 2019 and
CrI.M.P.No.17983 of 2019

1. R.Perumalsami
2. T.Manoharan
3. T.Manivannan
4. P.Mohanprakash
5. N.Boopathi
6. N.Kutti @ Ramachandran
7. M.Yogananthababu
8. R.Mohan @ Mohanraj

...Petitioners

-Vs-

State represented by
The Inspector of Police,
Chithode Police Station,
Erode.

(Crime No.368 of 2016)

... Respondent

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C., pleaded to call for the proceedings in S.T.C.No.364 of 2017 pending on the file of Judicial Magistrate No.III, Erode in connection with Crime No.368 of 2016 dated 04.09.2016 registered by the respondent herein as against the petitioners herein under Sections 4, 8 & 9 of Tamil Nadu Gaming Act 1930 and quash the same.

For Petitioners	: Mr.R.Marudhachalamurthy
For Respondent	: Mr.M.Mohamed Riyaz,
	Additional Public Prosecutor

ORDER

The learned counsel for the petitioners has submitted that the respondent has registered an FIR against the petitioners in Crime No.368 of 2016 under Sections 4, 8 and 9 of the Tamil Nadu Gaming Act, 1930. He further submitted that as per the said FIR, on 03.09.2016 at about 22.30 hours, the respondent along with other police persons came to the scene of occurrence and found that the petitioners herein were playing cards and indulging them in gambling. He further submitted that the same officer after registering the FIR, has investigated the matter and filed a final report and based on the same, the learned Judicial Magistrate III, Erode has taken the case on file in S.T.C.No.364 of 2017 and issued summons to the petitioners. He



further submitted that in view of the judgment of the Hon'ble Supreme Court in Mohanlal Vs State of Punjab in CrI.A.No.1880 of 2011, the prosecution is vitiated and therefore he prayed to quash the proceedings in S.T.C.No.364 of 2017 against the petitioners.

2. The learned Additional Public Prosecutor has fairly conceded that this is covered by the aforesaid decision of the Hon'ble Supreme Court.

3. The Hon'ble Supreme Court in Mohanlal Vs. State of Punjab (cited supra) has held that if the complainant himself investigated the matter and filed final report, the prosecution is vitiated. In this case, admittedly, the complainant and the investigating officers are one and the same and hence in view of the aforesaid decision of the Hon'ble Supreme Court the prosecution is vitiated. Hence, this Court is inclined to allow this Criminal Original petition.

4. In the result, this Criminal Original petition is allowed. The proceedings against the petitioners in S.T.C.No.364 of 2017 on the file of the Judicial Magistrate No.III, Erode are quashed. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-VIII)

// True Copy//

Sub Assistant Registrar

vum

To

1. The Inspector of Police,
Chithode Police Station,
Erode.
2. The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.R.Marudhachalamurthy, Advocate, SR.No.101889.

CrI.O.P.No.32625 of 2019 and
CrI.M.P.No.17983 of 2019

RK(CO)
CSR:22/01/2020