



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.03.2019

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THE HONOURABLE MR.JUSTICE B.PUGALENDHI

Crl.o.P. (MD) Nos.23476 of 2015 and 1108 of 2016

and

Crl.M.P. (MD) Nos.1 of 2015 and 550 and 551 of 2016

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Sundari ... Petitioner in Crl.O.P. (MD) No.23476 of 2015
Sivakumar ... Petitioner in Crl.O.P. (MD) No.1108 of 2016

Vs.

State Rep. by
The Inspector of Police,
Prohibition Enforcement Wing,
Srivilliputhur,
Virudhunagar District. ... Respondents in both Crl.O.Ps
(Crime No. 105/2014)

Common Prayer: Criminal Original Petitions filed under Section 482 of Cr.P.C, to call for the records relating to the proceedings in C.C.No.284 of 2015, on the file of the Judicial Magistrate No.II, Srivilliputhur at Virudhunagar District and quash the same so far as the petitioners' consent.
(in both Crl.O.Ps)

For Petitioners : Mr.Veerakathiravan, Senior Counsel
for Mr. G. Mariappan
For Respondents : Mr.R.Anandharaj
Additional Public Prosecutor

C O M M O N O R D E R

These petitions have been filed to quash the proceedings in C.C.No.284 of 2015, on the file of the learned Judicial Magistrate No.II, Srivilliputhur.

2.The case of the prosecution is that the respondent inspected the premises namely., Sri.Raja Lodge and Revathi A/C bar on 18.02.2014 at 12.10 p.m and during that period, it was found that the second accused/Sivakumar was supplying Kingfisher Beer to non member of the bar and the license was not renewed by then, for which the respondent registered a case as against the petitioners in Crime No.105 of 2014 for the offence punishable under Section 24 of the Tamil Nadu Prohibition Act. This official inspection has been challenged by the petitioners on the ground that the alleged inspection was made without following the due procedure and without giving prior intimation to any authority and the final report has been filed as against this petitioners on the ground that the petitioners were running the bar without having valid

license from the Assistant Commissioner of Excise Department.

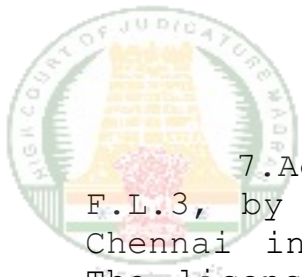
3.The learned senior counsel appearing for the petitioners contended that the petitioners were granted license by the Commissioner of Prohibition and Excise from 2002 to 2003 in license No.28/2002-2003 in prescribed form F.L.3 and the license was periodically extended, which reads as under:-

Sl.No.	Period	Date
1	2003-2004	17.11.2003
2	2004-2005	12.05.2004
3	2005-2006	23.05.2005
4	2006-2007	06.06.2006
5	2007-2008	04.07.2007
6	2008-2009	14.05.2008
7	2009-2010	08.06.2009
8	2010-2011	21.09.2010
9	2011-2012	23.01.2012
10	2012-2013	18.05.2013
11	2013-2014	20.03.2014
12	2014-2015	24.11.2014

4.The learned senior counsel appearing for the petitioner by referring the proceedings of the Commissioner of Prohibition and Excise, Chennai, dated 08.05.2013 contended that the license granted is valid as on date of inspection and the final report has been filed without even examining the concerned Commissioner of Prohibition and Excise Department and as well as the Assistant Commissioner of Prohibition and Excise Department, Virdhunagar District. He also referred to the final report filed in support of C.C.No.284 of 2015 and drew the attention of this Court to the list of witnesses and submitted that the respondent police has not even examined the licensing authority before filing the final report. He further submitted that the petitioners were having valid license for running the bar and the license was also periodically extended.

5.The learned Additional Public Prosecutor would contend that the renewal for the period 01.04.2013 to 31.03.2014 was made only on 10.03.2014 and as such on 18.02.2014, when the respondent inspected the petitioners' bar, the petitioners were not having regular license under F.L.3 and therefore, the respondent has filed the final report as against the petitioners.

<https://hcservices.ecourts.gov.in/hcservices/> the learned senior counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.



7. Admittedly, the petitioners were granted license under F.L.3, by the Commissioner of Prohibition and Excise Department, Chennai in the year 2003, which was also extended periodically. The license was granted by proceedings dated 10.03.2014, for the period 01.04.2013 to 31.03.2014. The inspection was made on 18.02.2014. According to the learned Additional Public Prosecutor, as on 18.02.2014, when they inspected the petitioner's bar, the petitioners were not having regular license.

8. The final report has been filed by the respondent police even without verifying the licensing authority, whether the petitioners were having regular license or not. As rightly pointed out by the learned senior counsel that the licensing authorities have not been examined and were not cited as a witness. Since the final report is filed without even examining the licensing authority on the validity of the licence as on the date of inspection and the petitioner is holding the FL3 license from 2003, this Court is inclined to allow this petition.

9. Accordingly, this criminal original petition is allowed and the proceedings in C.C.No.284 of 2015, on the file of the learned Judicial Magistrate No.II, Srivilliputhur is hereby quashed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl side)

// True Copy //

Sub Assistant Registrar(CS)

Ias

To:

1. The Judicial Magistrate No.II,
Srivilliputhur.

2. The Inspector of Police,
Prohibition Enforcement Wing,
Srivilliputhur,
Virudhunagar District.

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



Cr1.o.P. (MD) No.23476 of 2015
and
Cr1.O.P. (MD) No.1108 of 2016
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