



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P. (MD) .No.11404 of 2019

and

Crl.M.P. (MD) Nos.7145 and 7146 of 2019

WEB COPY

- 1.Muthu
- 2.Alagappan
- 3.Palaniyappan
- 4.Annamalai
- 5.Meiyappan
- 6.Alagappan
- 7.Ramasamy
- 8.Sekar
- 9.Ramanathan
- 10.Palaniyappan

... Petitioners/A1 to A10

- Vs. -

- 1.The State represent through
The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
Crime No.90 of 2018

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C. to call for the records in S.T.C.No.3466 of 2018 on the file of the Judicial Magistrate Court, Karaikudi and quash the same.

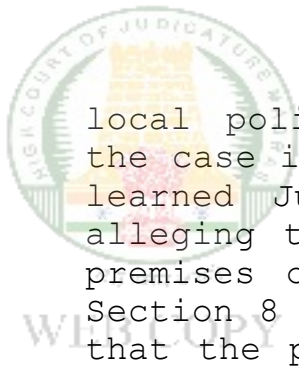
For Petitioners : Mr.D.Sadiq Raja

For Respondent : Mr.K.K.Ramakrishnan, APP

ORDER

The Criminal Original Petition has been filed to quash the charge sheet in S.T.C.No.3466 of 018 on the file of the Judicial Magistrate Court, Karaikudi as against the petitioners.

2.The learned counsel for the petitioners would submit that the first petitioner is running a Registered Recreation Club in the name and style of Young Men Club, Pallathur. Though the first petitioner obtained orders from this Court not to interfere with the day to day affairs of the club against the respondent, the respondent started interference with the club owned by the first petitioner since the first petitioner refused to pay mamool to the



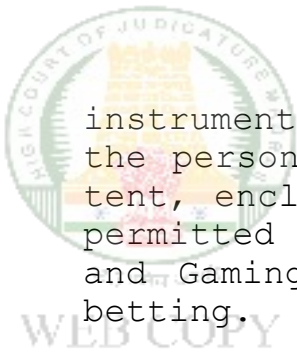
local political authorities. However, the respondent registered the case in crime No.90 of 2018, which was taken cognizance by the learned Judicial Magistrate, Karaikudiin S.T.C.No.3466 of 2018 alleging that the petitioners played rummy with money within the premises of the said Young Man Club and it is punishable under Section 8 and 9 of Tamil Nadu Gambling Act. He further submitted that the premises is not a gaming house and as per Section 5 of Tamil Nadu Gaming Act, the power to grant warrant to enter a common gaming house vested with the police officer not below the rank of the Deputy Superintendent of Police whereas the respondent entered into the gaming house and arrested the petitioners who were playing cards. Therefore, the entire proceedings is vitiated and prayed for quashment of the entire proceedings in S.T.C.No.3466 of 2018 on the file of the Judicial Magistrate, Karaikudi.

3.The learned Additional Public Prosecutor would submit that the respondent Police filed charge sheet in S.T.C.No.3466 of 2018 alleging that the petitioners played rummy with money within the premises of Young Man Club and it is punishable under Section 8 and 9 of Tamil Nadu Gambling Act. He further submitted that the respondent Police entered into the gaming house and arrested the petitioners when they were playing cards. Therefore, he prayed for dismissal of this petition.

4. Heard the learned counsel for the petitioners and the learned Additional Public Prosecutor appearing for the respondent and perused the records.

5. It is seen that the petitioners have been charged for the offences under Sections 8 and 9 of Tamil Nadu Gaming Act for the allegation that they played rummy in the gaming house namely Friends Recreation Club at Salem. Under Section 5 of Tamil Nadu Gaming Act, 1930, the power to grant warrant to enter a common gaming house is vested with a Police officer not below the rank of the Deputy Superintendent of Police who shall issue such warrant if he has reason to believe that no place is used as a common gaming house. In this case, the respondent who is the Inspector of Police had entered into the house of the petitioners and had taken action against the petitioners, and apparently the Inspector of Police was not authorised or accompanied by the Deputy Superintendent of Police who possessed warrant to arrest the petitioners. Therefore, the entire procedure contemplated under Section 5 of Tamil Nadu Gaming Act, 1930 is violated and the entire proceedings initiated by the respondent is vitiated.

6. Further, it is seen from the definition of Common Gaming House means any house, room, tent, enclosure, vehicle vessel or any place whatsoever in which cards, dice, tables or other



instruments of gaming are kept or used for the profit or main of the persons owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel or place opened, kept or used or permitted to be opened, kept, or used for the purpose of gambling? and Gaming does not include a lottery but includes wagering or betting.

7. In this regard, the Hon'ble Supreme Court of India in the case of ***State of Andhra Pradesh Vs. K.Sathyanaarayana*** reported in ***AIR 1986 SC 825***, has held as follows:

"The game of rummy is not a game entirely of chance like the three card game. The different names such as 'flush', brag etc is a game of pure chance, rummy on the other hand, requires certain amount of skill because the fall of the cards has to be memorized and the building up of rummy requires considerable skill in holding and discarding cards. It is mainly and preponderantly same character as the chance in a deal at a game of bridge. In fact in all games in which cards are shuffled and dealt out, there is an element of chance, because the distribution of the cards is not according to any set pattern but is dependent upon how the cards find their place in the shuffled pack. From this alone, it cannot be said that rummy is a game of chance and there is no skill involved?."

8. In view of the same, the game of rummy cannot be said as a game of chance and there is no skill involved. Therefore, the offence under Section 8 and 9 of Tamil Nadu Gaming Act would not attract as against the petitioners. Accordingly, this Criminal Original Petition is allowed and as such the proceedings in S.T.C.No.3466 of 2018 on the file of the Judicial Magistrate, Karaikudi is quashed insofar as the petitioners are concerned. Consequently connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

Arul



To

1.The Judicial Magistrate, Karaikudi.

2.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.

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

+1 CC to M/s.PALA RAMASAMY, Advocate (SR-93977[F] dated
23/10/2019)

+1 CC to M/s.PALA.RAMASAMY, Advocate (SR-94528[F] dated
25/10/2019)

Crl.O.P. (MD) .No.11404 of 2019
23.10.2019

KM/ (25.11.2019) 4P 6C