



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2019

CORAM:

THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

Crl.O.P(MD) . No.14481 of 2015

and

MP(MD)Nos.1 and 2 of 2015

WEB COPY

David Julius

... Petitioner/A3

Vs

1.State Rep. by its
The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.

2.Suki Premala
Taluk Supply Officer,
Vilavancode Taluk,
Kanyakumari District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Cr.P.C. to call for the records in C.C.No.196 of 2014, on the file of the learned Judicial Magistrate No.I, Kuzhithurai and quash the same as against the petitioner concerned.

For Petitioner

: Mr.N.S.Ramakrishna Dass

For Respondents

: Mr.A.Robinson

Government Advocate (Crl. Side)
for (R1)

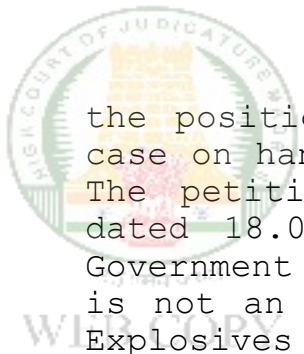
No Appearance (for R2)

ORDER

The petitioner is facing trial in C.C.No.196 of 2014, on the file of the learned Judicial Magistrate No.I, Kuzhithurai.

2.Though the case also pertains to offenses under Sections 353 and 307 of IPC, it is so only in respect of the other accused. As far as the petitioner who is shown as A-3 is concerned, the relevant offence is only under Section 9(B)(1)b of Explosive Act, 1884. The occurrence in question had taken place on 21.06.2012. The petitioner is said to have sold substantial quantity of Ammonium Nitrate.

3.The learned counsel for the petitioner draw my attention to an order dated 06.12.2018 made in Crl.O.P.No.8341 of 2017. The learned Single Judge in the said order has held that Ammonium Nitrate is not an explosive substance and that it is not an offence to possess it under Section 9 (B) of the Explosive Act. Of course,



the position underwent a change with effect from 11.07.2019. The case on hand pertains to the period prior to the said cut off date. The petitioner's counsel also drew my attention to the circular dated 18.03.2009, issued by the Chief Controller of Explosives, Government of Tamil Nadu, clarifying that Ammonium Nitrate per say is not an explosive and does not require any licence under either Explosives Act 1884 or Explosives Substance Act 1908. Therefore, respectfully following the order dated 06.12.2018 made in Crl.O.P.No.8341 of 2017, the impugned prosecution stands quashed as far as the petitioner is concerned.

4.Accordingly, this Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

Sub Assistant Registrar(CS)

sjj

To

1.The Judicial Magistrate No.I, Kuzhithurai.

2.The Inspector of Police,
Arumanai Police Station,
Kanyakumari District.

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

4.The Taluk Supply Officer,
Vilavancode Taluk,
Kanyakumari District.

+1 CC to Mr.N.S.RAMAKRISHNA DASS, Advocate (SR-95013[F] dated 31/10/2019)

Crl.O.P(MD). No.14481 of 2015
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VB(12.12.2019) 2P 6C