

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.01.2020

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.O.P.No.10110 of 2011
and
M.P.Nos.1 and 2 of 2011

K.Sekar

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Prohibition of Enforcement Wing,
Nagapattinam.
(Ref.Crime No.2416/2004)

... Respondent

PRAYER: Petition filed under Section 482 of the Code of Criminal Procedure seeking to call for the records in PRC.No.32 of 2009 @ PRC.No.20 of 2013 pending committal on the file of the Judicial Magistrate No.II, Nagapattinam and quash the same.

For Petitioner : Mr.V.Vijayakumar

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to call for the records in PRC.No.32 of 2009 @ PRC.No.20 of 2013 pending committal on the file of the learned Judicial Magistrate No.II, Nagapattinam and quash the same.

2. The case of the petitioner is that the petitioner is the 5th accused. The allegation is that the Sub-Inspector of Police attached with Prohibition Enforcement Wing, Nagapattinam conducted vehicle checking on 11.09.2004 along with the Constable attached with the Prohibition Wing near Nagore Bridge in Nagore to Azhiyur Road. At that time, they caught hold of one TVS 50 bearing Registration No.TN-50-8176 transporting arrack, during which the Toyota Car bearing Registration No.PY-01-R-9909

sped away and the police party chased and blocked the car and at that time A3 jumped out of the vehicle and ran away. A1 and A2 viz., Thangamani and Gopu were caught by the police party and they were found in possession of 210 litres of Pondy arrack and transporting it in six black colour plastic cans, each containing 35 litres and they transported it to supply it to another accused Murugesan. The said Toyoto Qualis car belongs to the petitioner herein. Thereafter, the Investigating Officer arrested A1 and A2 and obtained confession statements in the presence of the independent witness and took the sample of the contraband and sent it for the expert's opinion and filed a charge sheet. Challenging the said charge sheet, the present petition has been filed.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle. Challenging the charge sheet in PRC.No.32 of 2009, the present petition has been filed and subsequently, the trial was proceeded as against the other accused persons and the case ended in acquittal. The petitioner is the owner of the vehicle and without his knowledge the other accused persons misused his vehicle. Moreover, the main accused persons in the case have been acquitted, hence he prays to allow this petition.

4. Heard the learned Additional Public Prosecutor appearing for the State. He had not disputed the above facts.

5. Considering the above facts and circumstances of the case and it is an undisputed fact that the petitioner is the owner of the vehicle and his vehicle was used by other accused persons for illegal transportation of Pondy Arrack. It is also an admitted fact that the case against the other accused persons ended in acquittal. In view of the same, it will not be proper to force the petitioner who is the 5th accused in the case to face trial.

6. Accordingly, this criminal original petition is allowed. Consequently, the connected miscellaneous petitions are closed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

dsa
To

1.The Judicial Magistrate No.II,
Nagapattinam.

2.The Inspector of Police,
Prohibition of Enforcement Wing,
Nagapattinam. (Crime No.2416/2004)

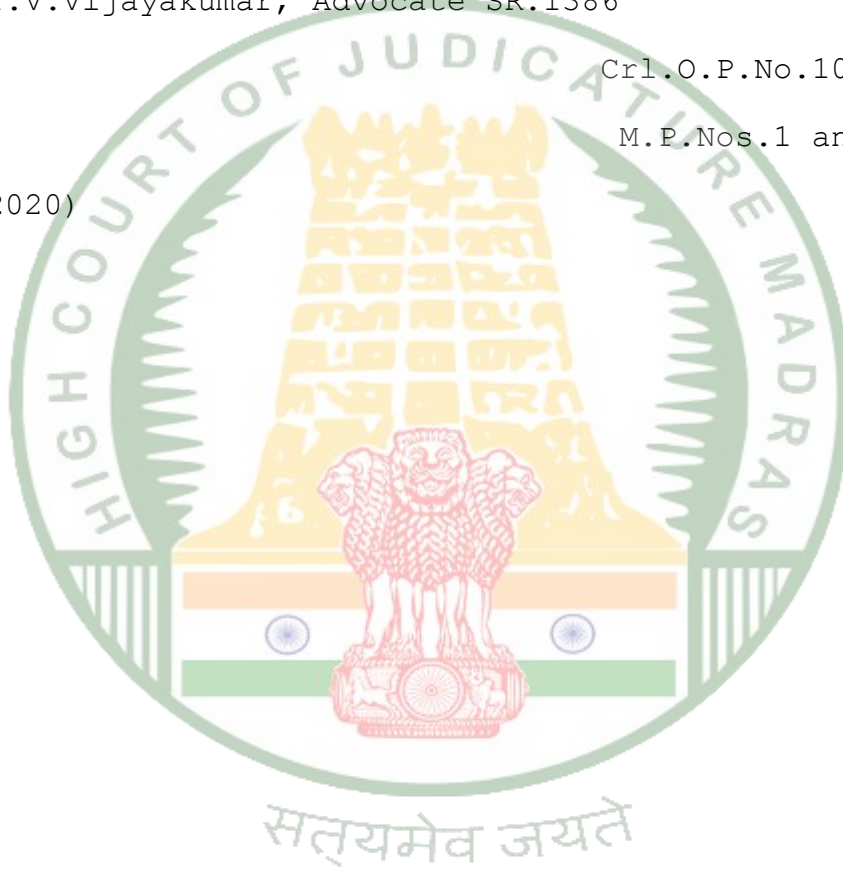
3.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

4.The Chief Judicial Magistrate,
Nagapattinam.

+lcc to Mr.V.Vijayakumar, Advocate SR.1386

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PM(CO)
CB(13/02/2020)



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