

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.20180 of 2020

1.V.Thangaraj,
S/o.Vaithiyalingam.

2.K.Madhan Kumar,
S/o.Karuppaiah.

... Petitioners

Versus

State through,
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
(Crime No.2376 of 2020).

... Respondent

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C., to enlarging the petitioners on bail in Crime No.2376 of 2020 pending investigation on the file of the respondent Police.

For Petitioners : Mr.R.Ganesh Kumar

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

Today the matter has been listed under the caption 'For Being Mentioned'
at the instance of the learned counsel for the petitioners.

2.The learned counsel for the petitioners submitted that this Court, by order dated 17.12.2020 in Crl.O.P.No.20390 of 2020, granted bail to the petitioners. In the first paragraph of the order, the offence has been wrongly typed as 328, 284 IPC r/w Section 24(1) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 or COTPA, 2003 instead of 328 of IPC r/w Section 22(a) of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 or COPTA, 2003. Hence, he prayed for necessary correction.

3.The learned Additional Public Prosecution agrees the submission made by the learned counsel for the petitioners.

4.In view of the above, the first paragraph of the order dated 17.12.2020 in Crl.O.P.No.20180 of 2020 is corrected as follows:-

“The petitioners, who were arrested and remanded to judicial custody on 16.11.2020 for the offence punishable under Sections 328 of IPC r/w Section 22(a) of the Cigarettes and Other

Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 or COPTA, 2003 in Crime No.2376 of 2020 on the file of the respondent police, seek bail.”

5.In paragraph No.5, the amount to be deposited within a period of 15 days and the same shall be commenced from the date of receipt of this order.

23.12.2020

vv2

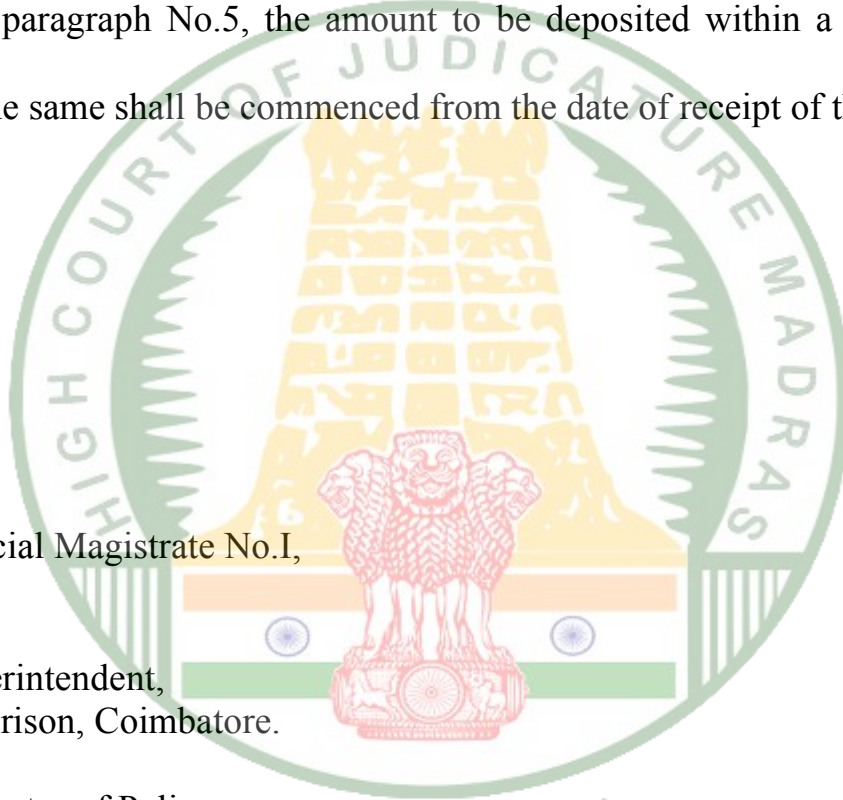
To

1.The Judicial Magistrate No.I,
Tiruppur.

2.The Superintendent,
Central Prison, Coimbatore.

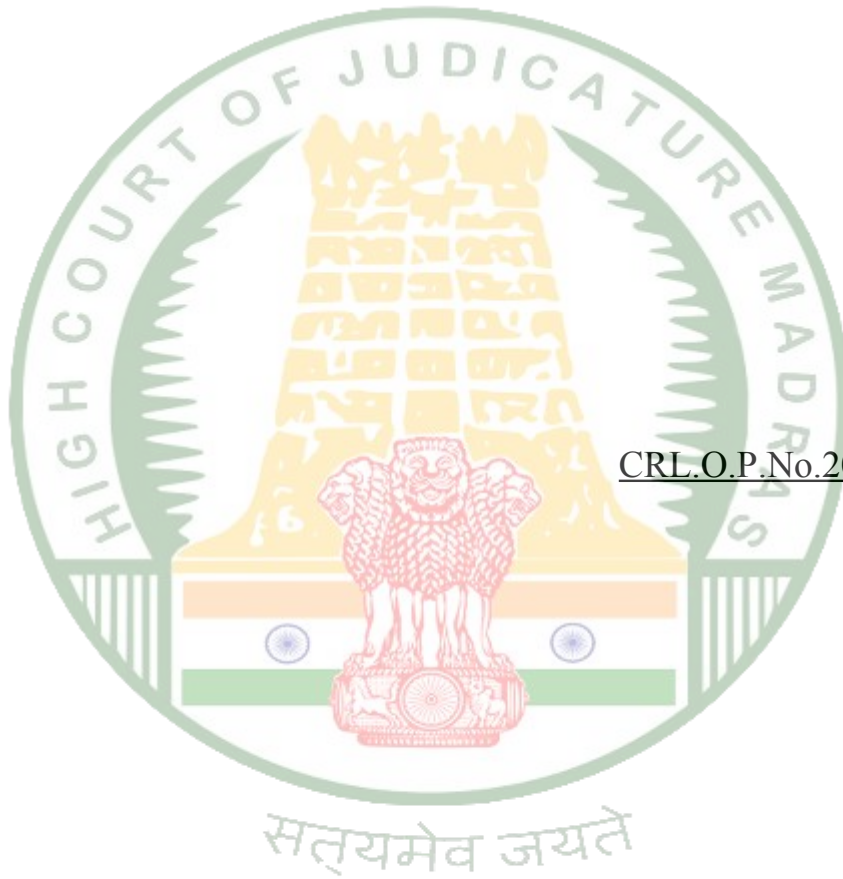
3.The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.

4.The Public Prosecutor,
High Court, Madras.



M.NIRMAL KUMAR, J.

vv2



CRL.O.P.No.20180 of 2020

WEB COPY

23.12.2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.O.P.No.20180 of 2020

1.V.Thangaraj,
S/o.Vaithiyalingam

2.K.Madhan Kumar,
S/o.Karuppaiah

.. Petitioner/A1 & A2

/versus/

The State rep by,
The Inspector of Police,
Tiruppur North Police Station,
Tiruppur District.
Crime No.2376 of 2020

.. Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 439 of Cr.P.C.,
praying to enlarge the petitioners on bail in Crime No.2376 of 2020 pending
investigation on the file of the respondent Police.

For Petitioner : Mr.R.Ganesh Kumar
For Respondent : Mr.C.Raghavan
Government Advocate (Crl.Side)

ORDER

***The petitioners, who were arrested and remanded to judicial
custody on 16.11.2020 for the offence punishable under Sections 328 of**

IPC r/w Section 22(a) of the Cigarettes and Other Tobacco Products

(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 or COPTA, 2003 in Crime No.2376 of 2020 on the file of the respondent police, seek bail.

2.The case of the prosecution is that the defacto complainant is native of Madathukulam, Tiruppur District and for the past eight years he has been residing at Tiruppur and working on daily wage. Further the defacto complainant is having a habit of consuming tobacco products. On 16.10.2020 at about 09.00 hrs, the defacto complainant is said to gone to Papanasanathar Provision Store near State Bank Colony and approached the vendor, the second petitioner herein and asked for Hans tobacco packet and it was informed to him that the price of a packet is Rs.50/-. Further he took Hans packet from the Tata Ace vehicle bearing Registration No.TN 39 AH 5207 which was parked near the store and gave it to him. When the defacto complainant consumed the Hans tobacco, he felt dizziness. Hence the Complaint.

WEB COPY

3.The learned counsel for the petitioners submitted that the petitioners are innocent and they have nothing to do with the alleged offence and have been falsely implicated in this case. The first petitioner is the owner of the Tata Ace vehicle and the second petitioner is the driver of the said vehicle. Therefore they

were arrested by the respondent Police and arrayed as accused. He further submitted that due to the quarrel between patrol police and the petitioners they have falsely implicated in this case. The petitioners have no bad antecedents. The petitioners without prejudice to his defence, is prepared to make considerable donation to any charitable Organization or Association. Therefore, he prayed for grant of bail for the petitioners.

4. The learned Government Advocate submitted that the investigation is pending, the seized tobacco products have to sent for analysis and if the petitioners are released on bail, he may abscond, tamper the witnesses and will indulge in the same type of offence. Hence, he vehemently opposed for grant of bail to the petitioner.

5.Considering the rival submissions and the petitioners offering to donate/pay considerable amount to any charitable organization or association, this Court is of the opinion that the petitioners shall be directed to deposit a sum of Rs.50,000/- (Rupees Fifty thousand only) each as non-refundable deposit through RGS/NEFT in favour of the “The Dean, Rajiv Gandhi Government General Hospital, Chennai, bearing A/c. No.10273425961, State Bank of India, Park Town (Chennai), 68, Evening Bazaar Road, Chennai, IFSC:SBIN0001856,

on such payment and production of proof, they shall be released on bail on condition that the petitioners shall execute a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.I, Tiruppur failing which, the petition for bail shall stand dismissed and on further condition that:

[a] Merely, because the petitioners deposit the said amount, it would not amount to admission of her guilt. Therefore, it is open to the trial Court to deal with the case independently.

[b] the petitioners and the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the Magistrate may obtain a copy of their Aadhar card or Bank pass Book to ensure their identity.

[c] the petitioners shall report before the respondent police daily at 10.30 a.m. until further orders.

[d] the petitioners shall not commit any offences of similar nature;

[e] the petitioners shall not tamper with evidence or witness either during investigation or trial.

[f] the petitioners shall not abscond either during investigation or trial.

[g] On breach of any of the aforesaid conditions, the learned Magistrate/Trial Court is entitled to take appropriate action against the petitioners in accordance with law as if the conditions have been imposed and the petitioner/s released on bail by the learned Magistrate/ Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala [(2005)AIR SCW 5560]**.

[h] If the accused thereafter abscond, a fresh FIR can be registered under

Section 229A IPC.

6.With the above direction, this Criminal Original Petition is ordered.

17.12.2020

rst

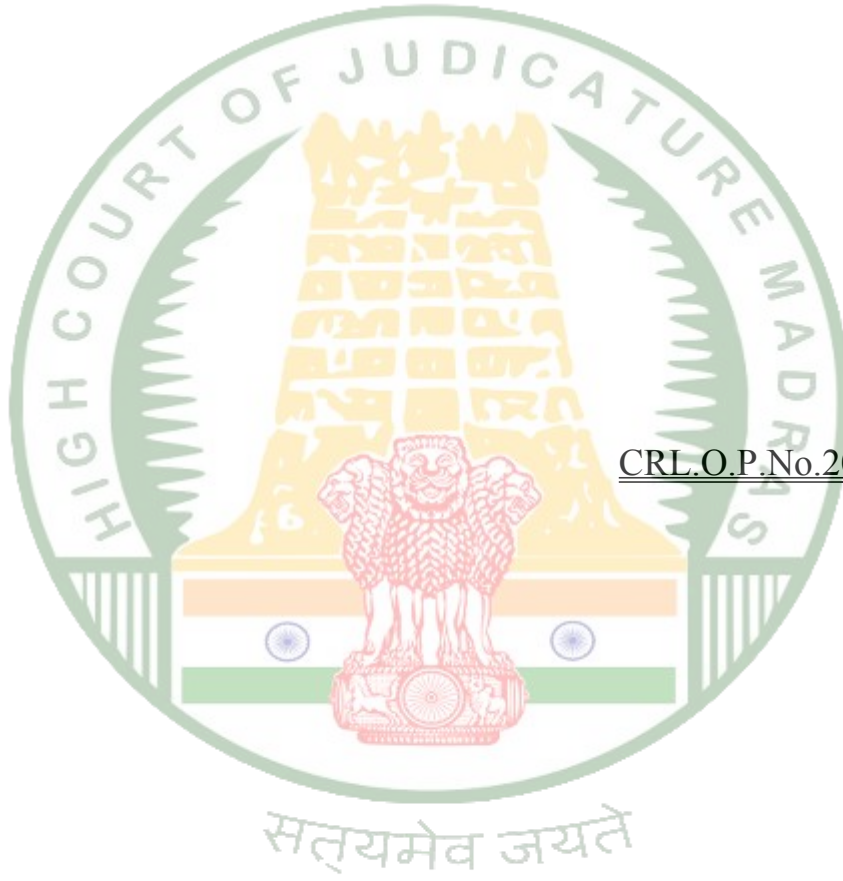
To

- 1.The Judicial Magistrate No.I,
Tiruppur.
- 2.The Superintendent, Central Prison,
Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY

M.NIRMAL KUMAR, J.
rst



CRL.O.P.No.20180 of 2020

WEB COPY

17.12.2020