



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 12.03.2020

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No. 4483 of 2020 and

CRL.M.P.(MD)Nos.2528 & 2529 of 2020

J.Shibu

... Petitioner/Accused No.3

Vs.

The Inspector of Police,
Prohibition and Excise Wing,
Thuckalay police station,
At Eraniel,
Kanyakumari District.
(Crime No.177 of 2009)

... Respondent/Complainant

Prayer: Criminal Original petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the case in C.C.No.329 of 2019 on the file of the Judicial Magistrate cum Fast Track Court(Magisterial Level), Eraniel and quash the same as against the petitioner.

For Petitioner : Mr.S.C.Herold Singh
For Respondent : Mr.A.Robinson,
Government Advocate(Crl. Side).

* * *

O R D E R

The petitioner is figuring as accused No.3 in C.C. No.329 of 2019 on the file of the Judicial Magistrate cum Fast Track Court (Magisterial Level), Eraniel.

2. It is a case arising under the Tamil Nadu Prohibition Act and other statutes.

3. The petitioner's counsel reiterated the contentions set out in the memorandum of grounds.

4. The learned Government Advocate(Crl. Side) pointed out that the petitioner is having four previous cases of the same nature. Out of them, two cases ended in acquittal and two cases are still pending trial.

5. The contentions urged by the petitioner involve actual aspects. While exercising jurisdiction under Section 482 of Cr.P.C, this Court cannot do so and usurp the function of the trial Court. Therefore, leaving open all the petitioner's contentions and the defences, the criminal original petition stands dismissed.



6. It is made clear that this Court has not gone into the merits of the matter. The petitioner's personal appearance before the Court below stands dispensed with.

7. The learned trial Magistrate shall insist on the personal appearance of the petitioner only when it is absolutely necessary and imperative. The petitioner shall be called upon to appear in person before the trial Court at the time of answering the charges and at the time of examination under Section 313 of Cr.P.C., and at the time of pronouncement of Judgment. On all other occasions, the petitioner can be represented through his counsel.

8. The learned trial Magistrate is requested to dispose of the case on merits and in accordance with law within a period of six months from the date of receipt of a copy of this order. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (crl.side)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

pmu

To:

1. The Judicial Magistrate cum
Fast Track Court(Magisterial Level),
Eraniel.
2. The Chief Judicial Magistrate, Kanniyakumari @ Nagercoil.
3. The Inspector of Police,
Prohibition and Excise Wing,
Thuckalay police station,
At Eraniel, Kanyakumari District.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
5. +1 CC to Mr.S.C.HEROLD SINGH, Advocate
(SR-11378[F] dated 12/03/2020)

Crl.O.P.(MD)No.4483 of 2020
12.03.2020

TP (07.05.2020) 2P 6C