



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.08.2020

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CrI.O.P.(MD) No.7930 of 2020

and

CrI.M.P.(MD)No.3775 of 2020

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Muthukumar Nicholas, S/o.Sethuraman .. Petitioner/Accused No.3

-vs-

The State Rep. by
The Inspector of Police,
Tharavaikulam Police Station,
Thoothukudi District.
(Crime No.81 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., praying to call for the records pertaining to the case in Crime No.81 of 2020, on the file of the Inspector of Police, Tharavaikulam Police Station, Thoothukudi District, and quash the same insofar as the petitioner/A3 is concerned.

For Petitioner : Mr.V.Malaiyendran

For Respondent : Mr.APG.Ohm Chairma Prabhu
Government Advocate (Criminal side)

O R D E R

This Criminal Original Petition has been filed seeking to quash the F.I.R. in Crime No.81 of 2020, pending on the file of the respondent herein.

2.The learned counsel appearing for the petitioner would submit that the petitioner was working as Supervisor in the TASMACH Shop. On the fateful day of occurrence, he has received the sales amount from the Salesman, who is working in the TASMACH Shop and remitted the same in the bank account and he has nothing to do with the alleged transportation of liquor bottles as alleged and hence, the learned counsel prays to quash the proceedings in Crime No.81 of 2020.

3.The learned Government Advocate (Criminal side) appearing for the respondent, on instructions, would submit that during the time of occurrence, the petitioner and four others transported 488 liquor bottles without any permission. During the search made by the Investigation Officer, the petitioner and others ran away from



the place of occurrence and thereby, it cannot be said that the petitioner has not involved in the said occurrence.

4.Upon considering the arguments advanced by the learned counsel on either side and on going through the averments stated in the F.I.R., it appears that immediately after intercepting the Car bearing Registration No.TN-69-AF-9099, the petitioner herein got down from the Car and ran away. The said particulars were given by one Murugan and David Raj immediately at the time when the occurrence had happened. Only after knowing the same, the respondent police had registered the above referred case after including the petitioner as Accused No.3. Therefore, the question of involvement of the petitioner in the said crime, has to be decided only during the time of trial.

5.In this context, it is necessary to see the judgment of our Hon'ble Apex Court in the case of **Sau.Kamal Shivaji Pokarnekar Vs. The State of Maharashtra and others [Criminal Appeal No.255 of 2019, dated 12.02.2019]**, wherein it has been held as follows:-

'5. Quashing the criminal proceedings is called for only in a case where the complaint does not disclose any offence, or is frivolous, vexatious, or oppressive. If the allegations set out in the complaint do not constitute the offence of which cognizance has been taken by the Magistrate, it is open to the High Court to quash the same.'

6.Therefore, applying the said principle to the case on hand and considering the fact that when at the time of occurrence, the petitioner had possessed 488 liquor bottles without any permission, for which, the F.I.R. has been registered for the offences under Sections 188 and 269 of I.P.C. and Sections 4(1)(aa) and 14-A of the Tamil Nadu Prohibition Act, I am of the view that it is not a fit case to quash the F.I.R. Hence, this Criminal Original Petition is dismissed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar (Records)

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

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official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

- 1.The Inspector of Police,
Tharavaikulam Police Station,
Thoothukudi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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VB (21.08.2020) 3P 3C