



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.12.2020

CORAM:

THE HONOURABLE MRS. JUSTICE J.NISHA BANU

Crl.O.P(MD)No.15677 of 2020 and

Crl.M.P. (MD) No.7680 of 2020

WEB COPY

M.Suriyakumar

Petitioner/Accused No.2

Vs

1.The Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
(Crime No.443 of 2020)

Respondent/Complainant

2.Jothimurugan
Sub Inspector of Police,
Uchipuli Police Station,
Uchipuli,
Ramanathapuram District.

Respondent/Defacto Complainant

PRAYER: Petition filed under Section 482 of Code of Criminal Procedure, to call for records relating to the FIR in Crime No.443 of 2020, on the file of the 1st respondent police and quash the same as against the petitioner.

For Petitioner : Mr.V.Chandrapandi

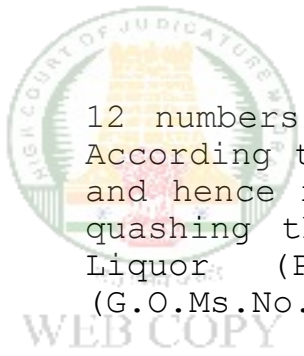
For R1 : Mr.V.Neelakandan
Additional Public Prosecutor(Crl.side)

O R D E R

Heard the learned counsel appearing for the petitioner and the learned Government Advocate appearing for the first respondent.

2.The case of the prosecution is that a case in Crime No.443 of 2020 has been registered, based on the complaint given by the defacto complainant, who is the Sub Inspector of Police of the 1st respondent police station, alleging that on 27.09.2020 at 10.30 am, the petitioner along with the 1st accused transported 12 numbers of 650 ml beer bottles, which was purchased from the TASMAT Wine shop, without any permit.

3. The learned counsel for the petitioner would submit that the petitioner is a law college student and he is awaiting to receive his enrollment. He would further submit that as per G.O.(Ms0 No.14, H.P.& EVI Department, dated 09.06.2017, a person can carry maximum of 7.8 litres of beer lawfully for personal use, but in this present case, the petitioner and one another have jointly in possession of



12 numbers of 650 ml beer bottles 650 x 12 bottles = 7.8 litres. According to the petitioner, he comes under the exceptional category and hence no offence is made out against him and he would pray for quashing the FIR. The petitioner also relied upon the Tamil Nadu Liquor (Possession for personal consumption) rules, 1996, (G.O.Ms.No.75, P&E, dated 19th April 1996.

4.The learned Additional Public Prosecutor (Crl.side) appearing for the first respondent, on instructions, would submit that Final Report was made ready on 27.09.2020 and he has strongly objected to quash the case against the petitioner.

5.Considering the facts and circumstances of the case and also taking note of the Tamil Nadu Liquor (Possession for personal consumption) rules, 1996, (G.O.Ms.No.75, P&E, dated 19th April 1996 relied upon by the counsel for the petitioner, it is revealed that an individual can carry 7.8 litres of liquor(Beer) for his personal use. Here, in the present case, the petitioner along with the co-accused were in joint possession of 12 numbers of 650 ml beer bottles. For better appreciation, the above said Government Order is extracted here under:-

TAMIL NADU LIQUOR (POSSESSION FOR PERSONAL CONSUMPTION) RULES, 1996,
(G.O.Ms.No.75, P&E, dated 19th April 1996.

SRO A-47 (a) 1996 - In exercise of the powers conferred by Section 54 of the Tamil Nadu Prohibition Act, 1937 (Tamil Nadu Act X of 1937), read with clause (III) of the proviso to sub section (1) of Section 4 of the said Act, the Governor of Tamil Nadu hereby makes the following rules:-

RULES

1.Short title and commencement -

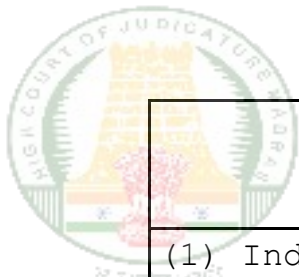
(1)These rules may be called the Tamil Nadu Liquor (Possession for personal consumption) Rules, 1996.

(2)These rules shall come into force with effect on and from the 25th April 1996.

2.Possession of liquor for personal consumption:- No person shall possess the liquor mentioned in column (1) of the Table below, which have already been specified under sub clause(i) of clause(j) of sub section (I) of Section 4 of the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937, for personal consumption, in excess of the quantity specified in the corresponding entries in column(2) thereof.

1.TABLE

Amended Vide G.O.(Ms) No.14, H.P.& EVI Department, dated 09.06.2017.



Liquor (1)	Quantity (in Litres) (2)
(1) Indian made Foreign Spirits	4.5
(2) Foreign Liquor	4.5
(3) Beer	7.8
(4) Wine	9.0

*Published in part III, Section 1 (a) of the Tamil Nadu Government Gazette Extraordinary, dated the 17th April 1996.

6. In view of the above, this Criminal Original Petition is allowed and the proceedings in Crime No.443 of 2020, on the file of the 1st respondent police is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for 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,
Uchipuli Police Station,
Ramanathapuram District.
(Crime No.443 of 2020)
- 2.The sub Inspector of Police,
Uchipuli Police Station,
Ramanathapuram District.
(Crime No.443 of 2020)
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P(MD)No.15677 of 2020 and
Crl.M.P. (MD) No.7680 of 2020
23.12.2020

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