

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.02.2021

CORAM

THE HONOURABLE MR.JUSTICE N. ANAND VENKATESH

Crl.OP.Nos.375 and 10268 of 2019
&
Crl.MP.No.233 and 234 of 2019

Mr.C.Saravanan ...Petitioner/Accused No.3
in Crl.OPNo.375 of 2019

1.Mr.K.Gopinath

2.Mr.Karthick Palaniappn

...Petitioners/Accused No.1 & 2
in Crl.OP.No.10268 of 2019

.Vs.

State Rep.by the
The Inspector of Police,
F-3, Nungambakkam Police Station,
Chennai.
Cr.No.659 of 2018

..Respondent
in Crl.OPNos.375 & 10268 of 2019

COMMON PRAYER: Criminal Original Petitions filed under Section 482 of the Code of Criminal Procedure, to call for the records in C.C.No.9122 of 2018 pending on the file of the learned XIV Metropolitan Magistrate Egmore at Chennai and quash the same.

For Petitioners : Mr.V.S.Senthil Kumar
(Both Crl.OPs)

For Respondent : Mr.M.Mohamed Riyaz
(Both Crl.OPs) Additional Public Prosecutor

COMMON ORDER

These criminal original petitions have been filed seeking to quash the proceedings in C.C.No.9122 of 2018, pending on the file of the XIV Metropolitan Magistrate Egmore, Chennai.

2.Heard Mr.V.S.Senthil Kumar, learned counsel for the petitioners and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent.

3.The respondent police has filed a Final Report against the petitioners for an alleged offense under Section 24 of the Tamil Nadu Prohibition Act, 1937. For proper appreciation, the provision is extracted hereunder:

24. Penalty for breach of the conditions of licences and permits. - In the event of any breach by the holder of such licence or permit or by his servants or by any one acting with his express or implied permission on his behalf, of any of the terms or conditions of such licence or permit, such holder shall, in addition to the cancellation or suspension of the licence or permit granted to him, [be punished with [....] imprisonment for a term which may extend to three years, and with fine which may extend to three thousand rupees.

4.It is seen from the licence issued to the Club and also the circular issued by the Commissioner of Prohibition and Excise that even the guests of the members are eligible for consuming liquor in the Clubs. In other words, a member can bring anyone as guest to the Club and such a guest can consume liquor.

5.The allegations made in the Final Report generally states that at the time of investigation, many non-members were found to be consuming liquor. There is absolutely no material to show as to whether any verification was done by the Investigation Officer to see if these non-members were the guests brought by the member of the Club. Till such verification is done, the consumption of liquor by a non-member by itself will not amount to violation of the condition of licence. This crucial factor has not been investigated in this case.

6.In view of the above discussion, this Court finds that there are absolutely no materials to sustain the charge under Section 24 of the Tamil Nadu Prohibition Act, 1937 against the petitioners and the continuation of the proceedings will amount to an abuse of process of Court which requires the interference of this Court under Section 482 of Cr.P.C.

7.In the result, the proceedings in C.C.No.9122 of 2018, on the file of the XIV Metropolitan Magistrate Egmore, Chennai, is hereby quashed.

8. These Criminal Original Petitions are accordingly allowed. Consequently, connected miscellaneous petitions are closed.

s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

KP

To

1. The Inspector of Police,
F-3, Nungambakkam Police Station,
Chennai.

2. XIV Metropolitan Magistrate Court,
XIV Metropolitan Magistrate,
Egmore, Chennai.

3. The Public Prosecutor,
High Court, Madras.

Crl.OP.Nos.375 and 10268 of 2019

SSD(CO)
SP(09/03/2021)