

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.07.2021

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

**Crl.O.P.No.5939 of 2018
and Crl.M.P.Nos.2987 and 2988/2018**

Shanmugavel

... Petitioner

Vs.

1.State rep.by
Sub Inspector of Police,
Karnalpalayam Police Station,
Erode.

2.K.G.Shivakumar

... Respondent

Prayer:Petition filed under Section 482 of Cr.P.C., to call for the records and quash the Charge Sheet in S.T.C.No.2192/2015 on the file of Judicial Magistrate II, Erode.

For Petitioner : Mr.J.C.Durairaj

For RR1 : Mr.C.E.Pratap, Government Advocate
(Crl.Side)

ORDER

The petitioner has filed this petition to quash the proceedings in S.T.C.No.2192/2015, on the file of the Judicial Magistrate II, Erode.

2. It is the case of the prosecution that on 08.03.2015, while the 2nd respondent was on duty in view of Women's Day, one Mr.Kumanan, General Secretary, இளைஞர் ஒருங்கிணைப்பு இயக்கம், along with 68 persons waylaid the people who came to purchase liquor at TASMAC Shop No.3481, situated at Krishnampalayam Road and stopped them from purchasing liquor and thereby committed an offence under Section 143 and 341 IPC. Based on the complaint, the 1st respondent registered a case in Cr.No.130/2015 and thereafter, filed a Charge Sheet before the learned Judicial Magistrate II, Erode, in S.T.C.No.2192 of 2015. Challenging the said proceedings, the petitioner has filed the present petition.

3. The learned counsel appearing for the petitioner submitted that on the Women's Day, the accused persons peacefully protested against the sale of liquor and also requested the people who came to TASMAC shop not to drink highlighting the ill-effects of drinking and that due to the said protest no untoward incident had happened in the locality and no properties were damaged and not even a single individual made a complaint against the

petitioners. While being so, the law enforcing agency has registered the said complaint on its own volition and, therefore, prays for appropriate orders.

4. The learned Government Advocate (Crl.Side) submitted that the protest was carried out without obtaining the necessary permission from the law enforcing agency. After examining the witnesses, the charge sheet has been laid. It is further submitted that the petitioners have no right to prevent the persons who intend to purchase liquor from the Shop. Since the said act on the part of the petitioners is illegal, thereby eroding the finances of the State, the case was registered against them.

5. This Court paid its careful consideration to the submissions advanced by the learned counsel appearing on either side and perused the materials available on record.

6. A perusal of the materials available on record reveal that the petitioner along with the other persons, who are arrayed as accused have in no way caused any inconvenience to the public. In fact, it is not the case of

the respondents even that the protest of the petitioner and other persons had resulted in a law and order situation demanding action against them. The materials on record reveal that the petitioners had only asked the persons, who were going to the TASMAL shop to desist from drinking by educating them of the evil effects of liquor. In fact, the said peaceful protest has been done on Women's Day. Drinking liquor is causing problems in many families and women are the most affected of the same. The petitioners, with a view to bring harmony in the families and for the betterment of the women folk had thought it fit to hold the peaceful demonstration on women's day. In fact, if really the law enforcing agency was concerned with the welfare of the society, they should have given protection to the petitioner and other persons, rather than making them the accused in this case.

7. It is not out of context here for this Court to highlight that number of TASMAL shops are mushrooming at many places, where selling of liquor is even prohibited. The inconvenience caused to the general populace in the said locality falls into deaf ears and only when it comes up before the Court, action is taken by the law enforcing agency. Consumption

of alcohol is one of the reasons for rise in crime rate and more offences against women. On the day when women are adored for their multifaceted responsibilities shouldered by them in the society, the petitioner and other members of the gathering have thought it fit, as a fitting tribute to the women folk organised the said peaceful protest. There being no violence or lawlessness that had happened on the said day due to the said protest, registering the complaint against the petitioner and other members of the gathering is wholly deplorable and cannot be sustained.

8. The Government, in utter defiance to the health and welfare of the citizens, merely for earning higher revenue and maintaining the financial stability of the State, is promoting the consumption of alcohol, grossly ignoring the health hazards, which it will cause and due to alcohol consumption, domestic violence are prone to increase. It is very sorry to see the law enforcing agency adopting an insensitive approach in dealing with protesters including women, who were peacefully agitating against the sale of liquor.

9. Though it is the case of the respondents that two witnesses have been examined, however, they have not spoken anything against the petitioner or about the protest not being peaceful. In such a backdrop, proceeding against the petitioner as also other members of the group is wholly unsustainable. The law enforcing agency ought not have registered the case against the petitioner and other members of the gathering. In view of the aforesaid discussion, this Court is inclined to quash the proceedings against all accused persons.

10. This Criminal Original Petition is allowed and the proceedings in S.T.C.No.2192 of 2015, on the file of the learned Judicial Magistrate No.II, Erode, is quashed against all the accused persons. Consequently connected miscellaneous petition is closed.

sk/GLN

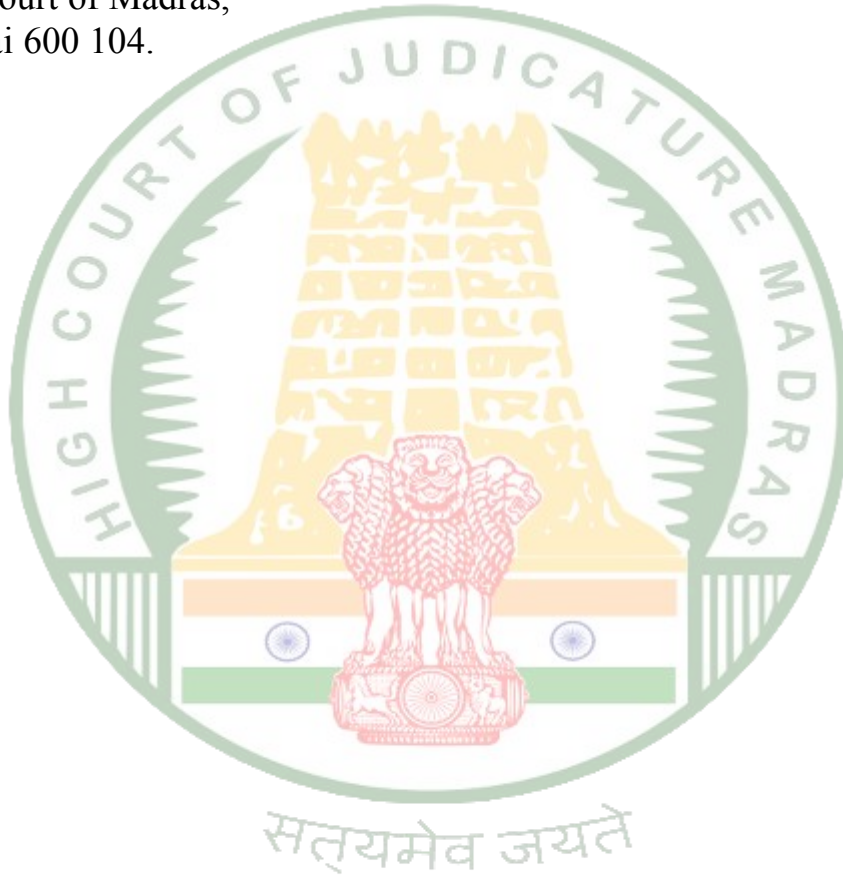
06.07.2021

Speaking Order/ Non Speaking Order
Index: Yes/ No
Internet: Yes/ No

To

1.The Sub Inspector of Police,
Karngalpalayam Police Station,
Erode.

2.The Public Prosecutor,
High Court of Madras,
Chennai 600 104.



WEB COPY

M.DHANDAPANI,J.
Sk/GLN



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