

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.04.2021

CORAM:

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CrI.O.P.No. 1413 of 2018 and
CrI.M.P.Nos.514 & 515 of 2018

Kumar @ Magesh

... Petitioner/A15

Vs.

1. The State,
Represented by
The Inspector of Police,
Prohibition & Excise Wing,
Gobichettipalayam,
Erode District.

2. Manimozhi
Inspector of Police,
Prohibition & Excise Wing,
In Charge of Prohibition & Excise Wing,
Gobichettipalayam,
Erode.

(Crime No.861 of 20125)

... Respondents

Prayer:

Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure to call for the records relating in P.R.C.No.11 of 2016 on the file of the Judicial Magistrate No.III, Erode and quash the same.

For Petitioner : Mr.M.Guruprasad

For Respondents : Mr.Shanmuga Rajeshwaran
Government Advocate

O R D E R

This petition has been filed challenging the proceedings initiated by the respondent police against the petitioner for the offences under Sections 4(1) aaa, r/w.4(1-A), 4(1)(b), (g), (h) TNP Act, 1937 and 5, 6, 7 of T.N.R.S. Rules and Sections 420, 467, 468, 471 of IPC and after completion of investigation, the respondent police laid charge sheet against the petitioner for the alleged offences under Sections 7, 4(1) aaa, 4(1-A) TNP Act r/w. 5&6 TN rectified spirit Rules and

465, 468, 471, 420 of IPC r/w 149 of IPC before the learned Judicial Magistrate No.III, Erode in PRC.No.11 of 2016.

2. The grounds raised by the learned counsel for the petitioner are all factual in nature and it requires appreciation of evidence and this Court cannot decide the same in exercise of its jurisdiction under Section 482 of Criminal Procedure Code. It is left open to the petitioner to raise all the grounds before the Court below and the same shall be considered on its own merits and in accordance with law. This Court is not inclined to interfere with the proceedings pending before the Court below.

3. The learned counsel for the petitioner requested this Court to dispense with the presence of the petitioner. Taking into consideration, the facts and circumstances of the case, the presence of the petitioner is dispensed with and he shall be represented by a counsel, who shall cross examine the witnesses on the same day, they are examined in Chief. The petitioner shall be present before the Court below at the time of questioning under Section 313 Cr.P.C and at the time of passing of the final judgement.

4. Accordingly, this Criminal Original Petition is disposed of with a direction to the Court below to complete the proceedings in PRC.No.11 of 2016 within a period of six months from the date of receipt of a copy of this order. The trial shall be conducted on a day to day basis in accordance with the guidelines given by Hon'ble Supreme Court reported in Vinod Kumar Vs State of Punjab [2015 (1) MLJ (Crl) 288 SC]. If the petitioner adopts any dilatory tactics, it is open to the trial Court to insist upon the presence of the petitioner and remand him to custody as per the judgment of the Hon'ble Supreme Court in STATE OF UTTAR PRADESH VS. SHAMBHU NATH SINGH (JT 2001 (4) SC 3191). Consequently, connected miscellaneous petitions are also closed.

Sd/-

Assistant Registrar(CS-VI)

//True copy//

Sub Assistant Registrar

msm

To

1. The Inspector of Police,
Prohibition & Excise Wing,
Gobichettipalayam,
Erode District.

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

+1cc to Mr.M.Guruprasad, Advocate SR.No.22820

Cr1.O.P.No. 1413 of 2018 and
Cr1.M.P.Nos.514 & 515 of 2018

VSN II(CO)
GMY(08/07/2021)



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