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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.07.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.11967 OF 2021

AND

CRL.M.P.NO.6763 OF 2021

R.Kandasamy

... Petitioner

Versus

1. In the State, Sub-Inspector of Police,
D-3 Podanur Police Station,
Crime No.430/2021,
Coimbatore.

2. Ramu

... Respondents

PRAYER:-

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records culminated in FIR Crime No.430 of 2021 on the file of the respondent Police, and quash the same.

For Petitioner : Mr.M.Karpagam

For R1 : Mr.E.Raj Thilak,
Government Advocate
(Crl. Side)

ORDER

This Criminal Original Petition has been filed to quash the FIR in Crime No.430 of 2021, pending on the file of the 1st respondent Police.

2. The case of the prosecution is that on 30.03.2021, at about 09.00 a.m., the 2nd respondent, Auto Driver, dropped the passengers in Karumbukadai, Coimbatore and when he was returning to the auto stand, near Karumbukadai Mariyamam Kovil, the petitioner was selling liquor bottles illegally. When the 2nd respondent questioned the same, the petitioner threatened him with dire consequences. Thereafter, the 2nd respondent lodged a



complaint to the 1st respondent Police. On receipt of the same, a case in Crime No.430 of 2021, for offence under Sections 4(1) (a) of the Tamil Nadu Prohibition Act, 1937 and 294(b) and 506 (i) IPC was registered against the petitioner.

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3. The learned counsel for the petitioner submitted that the FIR does not attract ingredients of any offence under the Tamil Nadu Prohibition Act, 1937 and the offence under the Indian Penal Code. The allegations made in the FIR are so absurd and inherently improbable, on the basis of which no person can be prosecuted. The learned counsel further submitted that as per G.O.Ms.No.14, H.P & EVI Department, Dated 09.06.2017, a person can carry maximum of 4.5 of Indian Made Foreign Spirits lawfully for personal use, but in the present case, the petitioner was found in possession of 1.44 litres of liquor. According to the petitioner, he comes under the exceptional category and hence, no offence is made out against him and he prays for quashing of FIR. The learned counsel for the petitioner relied upon the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996 (G.O.Ms.No.75, P & E, dated 19.04.1996).

4. The learned Government Advocate (Crl. Side) appearing on behalf of the 1st respondent Police submitted that the petitioner was illegally selling the liquor bottles to the public. On the receipt of the complaint from the 2nd respondent, the 1st respondent Police reached the scene, seized the liquor bottles by way of Seizure Mahazar and arrested the petitioner. He further submitted the investigation is almost in the verge of completion and has strongly objected to quash the case against the petitioner.

5. Considering the facts and circumstances of the case and also taking notice of the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, (G.O.Ms.No.75, P & E, dated 19.04.1996, relied upon by the learned counsel for the petitioner, it is revealed that an individual can carry 4.5 litres of Indian made Foreign spirits for his personal use. Here, in the present case, the petitioner was in possession of 180 ml labelled MC Lene (7 Bottles) and 180 ml Old Chef, in total 1.44 litres. For better appreciation, the relevant portion of the said Government Order is extracted hereunder:-

"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 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



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S.No.	Liquor	Quantity (in Litres)
1	Indian Made Foreign Spirits	4.5
2	Foreign Liquor	4.5
3	Beer	7.8
4	Wine	9.0

6. In view of the above, this Criminal Original Petition is allowed and the FIR in Crime No.430 of 2021 on the file of the 1st respondent Police is hereby quashed. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

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To

1. The Sub-Inspector of Police,
D-3 Podanur Police Station,
Coimbatore.
2. The Public Prosecutor,
High Court, Madras.

CRL.O.P.NO.11967 OF 2021

PCH(CO)
PBS/17/08/2021