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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.16687 of 2021
and
CRL.M.P.No.9105 of 2021

1. Madhu
S/o. Chinnpaiyan

2.G.Palanisamy
S/o. Govindaraj

... Petitioners/Accused 2 & 3

Versus

State by Inspector of Police
Natrampalli Police Station,
Thirupathur District.
(Crime No.142 of 2021)

...Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records in Crime No.142 of 2021 on the file of the Respondent police herein and quash the same.

For Petitioner : Mr.P.Paramasiva Doss

For Respondents : Mr.A.Damodaran
Addl. Public Prosecutor

ORDER

(This case has been heard through video conference)

The petitioners/A2 and A3 in this case in Crime No.142 of 2021 for offence under Section 4(1)(aaa), 4(1-A) and 24 of Tamil Nadu Prohibition Act has filed this quash petition.



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2. The contention of the petitioner is that on the basis of the confession of A1, the Special Sub-Inspector of Police, Natrampalli registered the F.I.R. against them. The case is that on 01.05.2021, when A1 Radhakrishnan was questioned by the respondent police, he stated that since 02.05.2021 is the counting day for the General Election wine shop would be closed. Hence, he approached Tasmac shop No.11296 Supervisor, the first petitioner and salesman, second petitioner and purchased liquor bottles for paying Rs.10 more than the fixed rate and he was in stock of liquor bottles. At that time, the respondent police caught him. The said A1 Radhakrishnan disclosed the role played by the petitioners. In this case, it is seen that the liquor bottles earlier seized, and thereafter, Section 27 of CrI.P.C. statement recorded. Hence, the statement given by A1 to the respondent police will not be admissible even under Sec.27 of Evidence Act. That being the case, the statement of A1, is hit by Section 25 of the Evidence Act and no case made out against the petitioner. He would further submit that earlier, he lodged a complaint against A1 on 05.02.2021, since, A1 was running illegal Bar near to the tasmac shop. With patronage from locals, he was selling liquor at higher rates, for which, the petitioner earlier lodged a complaint. There are two other cases in Crime No.516 of 2019 and 67 of 2021 for similar offence against the A1 in this case. There is animosity between the petitioner and A1 Radhakrishnan, hence, there is every possibility of false implications to break vengeance.

3. The learned counsel appearing for the petitioners would submit that in view of the registration of the above case, they are placed under suspension. For the purpose of departmental enquiry, A1 in this case gave an affidavit in support of the petitioners contrary to the case projected by the respondent.

4. The learned Additional Public Prosecutor appearing for respondent would submit that on the confession of A1, the petitioners were arrayed as accused. A1 clearly states the role played by the petitioners herein.

5. Heard rival submissions of learned counsel appearing for petitioner and respondent and perused the records.



6. Considering the submissions and on perusal of materials, it is seen that the entire case against the petitioners proceeds on the confession of A1, which is hit under Section 25 of the Evidence Act. Further, from the confession of A1, no recovery made. A1 gave a supporting Affidavit, of course, in another proceedings. In view of the same, proceedings against the petitioners, who are A2 and A3 in the above case would amount to abuse of process of law. Hence, the proceeding against A2 and A3 alone are quashed. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Criminal Miscellaneous Petition is closed.

Sd/-
Assistant Registrar (CS-II)

// True Copy //

Sub Assistant Registrar

rpp/nr

To

1. The Inspector of Police
Natrampalli Police Station,
Thirupathur District.

2. The Public Prosecutor,
High Court, Madras.

+1CC to Mr.P.Paramasiva Doss, Advocate, SR.No. 50393

CRL.O.P.No.16687 of 2021
and
CRL.M.P.No.9105 of 2021

BS(CO)
B.VC (22/10/2021)