



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2021

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.O.P.No.20582 of 2020
and
Cr1.M.P.No.8645 of 2020

Gunasekaran @ Gunaseelan

...Petitioner

Vs.

The State rep. by the Inspector of Police,
Annadhanapatty Police Station,
Salem,
Cr.No.1190 of 2020

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of the Code of Criminal Procedure, to call for the records of Cr.No.1190 of 2020 dated 10.06.2020 for the alleged offence under Section 77 of the Juvenile Justice Act 2015, r/w Sec.6 and 24(1) of the Cigarette and Other Tobacco Products Acts 2003 pending on the file of the respondent and quash the same.

For Petitioner : Mr.S.N.Subramani

For Respondents : Mr.A.Damodaran
Government Advocate [Cr1. Side]

O R D E R

The Criminal Original Petition filed to call for the records of Cr.No.1190 of 2020 dated 10.06.2020 for the alleged offence under Section 77 of the Juvenile Justice Act 2015, r/w Sec.6 and 24(1) of the Cigarette and Other Tobacco Products Acts 2003 pending on the file of the respondent and quash the same.

2. The primary contention of the petitioner is that the petitioner's name does not find place in the FIR and he has been falsely implicated on the confession of A1 and A2 viz.,



Sakthivel and Prakash, who are said to be the owner of the Lorry and the driver of the Lorry. During confession, A1 and A2 informed that the lorry loaded from Delhi to Chithode with rice bags, iron belts and some tobacco bags. After reached Chithode, the said tobacco bags will be handed over to the petitioner Gunaseelan, Tirunelveli and the said Gunaseelan has to take charge of the articles and to transport the same in his vehicle to Tirunelveli.

3. The contention of the petitioner is that the petitioner is called as Gunasekaran and not Gunaseelan and further he is not Tirunelveli Gunaseelan. In support of his contention he produced the arrest memo in Crime No.1554 of 2020 for the offence under Section 9(B)(1)(b) Explosive Act, 1884, wherein the petitioner was found to be in possession of crackers in his shop, the petitioner's wife got temporary licence to stock and sell the crackers. In the above said case, the petitioner is said to have been arrested on 23.07.2020 at 05.40 hours, later he was granted bail by the lower Court on 24.07.2020. Further he submitted that the petitioner came to know that he is falsely implicated on the confession of the co-accused in Crime No.1190 of 2020. The respondent police falsely implicated the petitioner knowing very well that the petitioner is not Gunaseelan of Tirunelveli and he is Gunasekaran of Salem, for obvious reason he has been falsely implicated.

4. The learned counsel appearing for the petitioner submitted that the petitioner is running a chit business, for his above said business he used to buy and distribute crackers to the subscribers for Diwali fund and during that period only he was arrested. In view of the same, he prayed for quashing of the Crime No.1190 of 2020 on the file of the respondent.

5. The learned Government Advocate [Crl. Side] submits that the respondent police produced the CD file in both the case. From the requisition for remand of Sakthivel and Prakash in Crime No.1190 of 2020, it is clearly mentioned Gunaseelan of Tirunelveli to whom the Tobacco products were intended to be handed over. Further in the remand report of the petitioner in Crime No.1190 of 2020, it is mentioned as Gunasekaran @ Gunaseelan, in the remand report of Sakthivel and Prakash, there is no mention about Gunasekaran. It is only mentioned about Gunaseelan, Tirunelveli.



6. Heard the submissions on both sides and on perusal of the materials it is seen that in the remand report in Crime No.1554 of 2020, the petitioner is referred as Gunasekaran @ Gunaseelan native of Dhathagapatty, Salem, though this Court find force in the submission of the petitioner. Coupled with the documents produced such as PAN Card, Voter ID, Driving License, Passport, Family Card etc. Now at this stage, after a competent court had accepted the remand report and remanded the petitioner. This Court refrains from dwelling into the same. It is for the petitioner to raise all these points during the trial and not in a quash petition.

7. In view of the above, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

Sd/-
Assistant Registrar (CS-VII)

// True Copy //

Sub Assistant Registrar

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To

1.The Inspector of Police,
Annadhanapatty Police Station,
Salem,

2.The Public Prosecutor,
High Court,
Madras.

Cr1.0.P.No.20582 of 2020

PCH(CO)
RVM(25/08/2021)