



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 01.12.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.18509 of 2021

and

Crl.M.P.(MD) Nos.10207 & 10208 of 2021

Arun ... Petitioner/ 4th Accused

vs.

1. The State represented through
The Inspector of Police,
Thogamalai Police Station,
Karur District.
in Crime No.436 of 2020. ... 1st Respondent/Complainant

2.Parameshwaran ... 2nd Respondent/Defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C, to call for the records pertaining to Spl.C.C.No.6 of 2021 on the file of the Special Judicial Magistrate No.1 (Training), Kulithalai, Karur District and quash the same against the petitioner.

For Petitioner : Mr.M.Seenisulthan
For Respondents : Mr.M.Sakthi Kumar
Government Advocate (Crl.) for R1

O R D E R

This Criminal Original Petition has been filed to quash the impugned proceedings in Special S.C.No.6 of 2021 on the file of the Special Judicial Magistrate No.1, Kulithalai.

2. The petitioner is facing trial for the offences under Section 12 of Tamil Nadu Gaming Act, Section 143, 269 IPC and Section 3 of the Epidemic Diseases Act.

3. The learned counsel for the petitioner points out that the case on hand is covered by order, dated 24.07.2020 made in Crl.O.P. (MD)No.6568 of 2020. In the said case, it was held as follows:-

"16.As per the dictum laid down by this Court in J.Raghunadhu vs. Emperor, reported in 1933 Mad WN 1422, the pial of a private house, which has access to the public street cannot be termed as a public place as contemplated under the Act."

4. In the case on hand, the petitioner was also playing cards in an open place. Therefore, Section 12 of Tamil Nadu Gaming Act, 1930 will not be attracted as it cannot be called as common gaming



house. The petitioner is a permanent resident of Pommagoundanur village. The petitioner's specific case is that in their village, there is not even a single case of COVID-19 infection. Therefore, subsequent events clearly vindicate the stand of the petitioner that he had not done anything so as to spread the disease. Hence, Section 269 IPC also cannot be invoked in this case.

5. The petitioner and others are villagers. They were merely found together and that will not constitute unlawful assembly. Hence, Section 143 IPC cannot be invoked.

6. For the same reason for which I had held Section 269 IPC cannot be invoked, Section 3 of the Epidemic Diseases Act also cannot be invoked against the petitioner. I am, therefore, of the view that continuation of the impugned prosecution is not really warranted. The impugned proceedings are quashed. The Criminal Original Petition is allowed. Consequently, connected miscellaneous petitions are closed. The benefit of this order will enure to the non-petitioning accused also.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csm/mga

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1. The special Judicial Magistrate No.I (Training)
Kulithalai, Karur District.
2. The Inspector of Police,
Thogamalai Police Station, Karur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Crl.O.P. (MD) No.18509 of 2021
and

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