



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.11.2021

CORAM:

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.O.P.(MD)No.18035 of 2021

and

Crl.M.P.(MD)No.9853 of 2021

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Palanisamy

... Petitioner /Accused No.1

vs.

1.State rep. by

The Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
(Crime No.493 of 2021)

... 1st Respondent/ Complainant

2. Sudheer

Deputy Superintendent of Police,
Thiruthangal,
Virudhunagar District.

... 2nd Respondent/
defacto Complainant

PRAYER : Criminal Original Petition filed under Section 482 Cr.P.C., to quash the FIR in Crime No.493 of 2021 on the file of the Inspector of Police, Thiruthangal Police Station, Virudhunagar District.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.T.Senthil Kumar

Additional Public Prosecutor

O R D E R

Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondents.

2. The petitioner is figuring as an accused in Crime No.493 of 2021 registered on the file of the first respondent on 24.10.2021 for the offence under Section 7(3) of the Lotteries Regulation Act, 1998.

3. The case of the defacto complainant is that the petitioner was found selling lottery tickets.

4. The learned counsel for the petitioner contended that the respondents did not recover any lottery tickets from the petitioner. All that was recovered from the petitioner was a piece of paper on



which certain numbers had been written. The case of the respondents rests rather on the confession made by the petitioner. The petitioner's counsel would remind the Court that on the strength of a mere confession, an accused cannot be convicted. He therefore called upon this Court to quash the impugned FIR.

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5. I called upon the learned Additional Public Prosecutor to produce the material seized from the petitioner. It is seen that they are perforated sheets of paper. Each sheet contained a certain number of boxes. In the sheet recovered from the petitioner, the boxes contained the following details:-

KL532, KL-321, KL431, KL533, KL444, KL522, BHUTTAN 111, BHUTTAN 123, BHUTTAN 232 & BHUTTAN 211.

According to the prosecution, the purchaser of a particular ticket would give his mobile number and if his number had won the prize, message will be texted to the buyer's mobile number. On handing over the ticket, money will be paid. The police would inform the Court that the transactions are conducted through online mode.

6. Of-course, the expression 'lottery ticket' carries a particular image and it is that image which one's mind would recall. But what was sold by the petitioner was a mere sheet containing a particular number. It may not resemble earlier lottery tickets. The mode also might have undergone a change. But the expression 'lottery' has been defined in Section 2(b) of the Lotteries Regulation Act, 1998 as follows:-

2(b). "lottery" means a scheme, in whatever form and by whatever name called, for distribution of prizes by lot or chance to those persons participating in the chances of a prize by purchasing tickets.

7. There are many social evils. Lottery which caters to the gambling instinct of humankind is one. To regulate and prohibit the said social menace, the statute was brought in. Such a statute which upholds public interest will have to be interpreted in a manner which will serve the object for which the Act was enacted.

8. In that view of the matter, the expression 'lottery' will have to be construed widely and not narrowly. In this case, the definitional clause employs words such as 'in whatever form' and 'whatever name'. The prizes are given by draw of lots. It is chance that determines the winner. The skill of the participants has no scope in the entire process. Therefore, *prima facie* going by the case of the prosecution, the offence is made out. There is no merit in the contentions advanced by the learned counsel appearing for the petitioner. This Criminal Original Petition stands dismissed. I make it clear that what has been answered in this petition is only the question of law raised by the petitioner. All the other defences of the petitioner are left open.



Criminal Original Petition stands dismissed. Consequently,
connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI)

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/ /2022

Sub Assistant Registrar(CS)

rmi

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 Inspector of Police,
Thiruthangal Police Station,
Virudhunagar District.
2. The Deputy Superintendent of Police,
Thiruthangal,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.O.P. (MD)No.18035 of 2021
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_RD(13.05.2022) 3P 4C