



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 11.01.2022

Coram:

THE HONOURABLE MR. JUSTICE V.BHARATHIDASAN

Criminal Original Petition No.23397 of 2016
and
Crl.M.P.No.10938 of 2016

Ari Devi

.. Petitioner/Accused

/versus/

State rep.by
the Inspector of Police,
PEW Thindivanam Police Station,
Villupuram District,
Crime No.373 of 2014

..Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code praying to call for the records in the charge sheet filed in C.C.No.362 of 2015 on the file of the Judicial Magistrate-I, Tindivanam and quash the same as illegal.

For Petitioner : Mr.S.K.Gandhi Kumar

For Respondent : Mr.C.E.Pratap
Government Advocate (Crl.side)

O R D E R

(This case has been heard through Video Conferencing)

This Criminal Original Petition has been filed to quash the criminal proceedings in C.C.No.362 of 2015, pending on the file of the Judicial Magistrate-I, Tindivanam.

2.Totally, there are two accused involved in this case. The petitioner is arrayed as A2 and he stood charges for the offences under Sections 420, 468, 471 of IPC and 4 (1-A), 4(1) (A) of T.N.P Act.

3.The case of the prosecution is that, on 17.12.2014, at about 08.30 p.m., while the respondent police are in the vehicle inspection, they intercepted a two wheeler bearing Reg.No.PY 01 BM 9387, which was driven by A1. When the respondent police intercepted the vehicle, A1 escaped and left the vehicle in



front of one Ranganathan house at Kanniya Nagar, and absconded. While searching the two wheeler, they found 25 liters of illicit arrack and also Indian made foreign liquor bottles, which are being transported from Pondicherry, without any license. Since the person, who has driven the vehicle, absconded. On enquiry, they found that the petitioner, who is arrayed as A2, is the owner of the two wheeler. Hence, First Information Report was registered for the aforesaid offences against the petitioner. After investigation, a final report has been filed before the trial Court. The learned Judicial Magistrate has taken cognizance of the offences and issued summons to the accused persons. To quash the charge sheet, the present Criminal Original Petition has been filed.

4.The learned counsel appearing for the petitioner submitted that, admittedly, the two wheeler and the contraband said to have seized from an unknown place. Further submitted that there is no materials available on record to show that the petitioner is the owner of the two wheeler and to that effect, the registration certificate of the vehicle was not produced and the concerned Regional Transport Officer was not examined by the police. Only based on the hearsay statement, the petitioner has been falsely implicated in this crime. Absolutely, there is no materials available on record to make out the prima faice case against the petitioner. Hence, the criminal proceedings is liable to be quashed.

5.The learned Government Advocate(Crl.Side) submitted that illicit arrack along with Indian made Foreign Liquor have been transported from Pondicherry, without proper licence. When the respondent Police intercepted a two wheeler, A1 who driven the two wheeler escaped from the police and abandoned the vehicle. Subsequently, on investigation, it is revealed that A1 has transported the contraband and A2 is the owner of the vehicle and both of them have been implicated in this case and a prima faice case is made against the petitioners. Therefore, there is no reason to quash the criminal proceedings against the petitioner.

6.Heard both sides and perused the materials on records.

7.The petitioner is arrayed as A2, the allegation against the petitioner is that he is the owner of a two wheeler, in which the contraband said to have been transported by A1. From the records, absolutely, there is no material available to show that, the petitioner is the owner of the two wheeler. The RC book of the vehicle was not seized and the concerned Regional Transport Officer, who has registered the vehicle, was not examined to show that the petitioner is the owner of the two wheeler. Only based on the statement given by a third party that



the petitioner is the owner of the two wheeler, he has been implicated in the case. That apart, the learned counsel appearing for the petitioner pointed out that there is a contradiction between the alleged seizure and the contraband sent to the Court and the contraband sent to the Court is totally different from the seized material.

8.Considering the fact that there is no material available on record to show that the petitioner is the owner of the two wheeler, this Court is of the view that no prima facie case has been made out against the petitioner to implicate in the offence. In the above circumstances, the criminal proceedings initiated against the petitioner is nothing but an abuse of process of law. Hence, the criminal proceedings in C.C.No.362 of 2015 pending on the file of the Judicial Magistrate No.1, Tindivanam, is liable to be quashed. Accordingly, it is quashed.

9.In the result, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To:

1. The Judicial Magistrate No.1, Tindivanam.

2. The Inspector of Police,
PEW Thindivanam Police Station,
Villupuram District.

3.The Public Prosecutor, High Court, Madras.

+1cc to Mr.S.K.Gandhi Kumar, Advocate, S.R.No.2388

Crl.O.P.No.23397 of 2016
and
Crl.M.P.No.10938 of 2016

MT(CO)
CT 31/01/2022