



WEB COPY



Crl.O.P.No.21125 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.07.2022

CORAM:

THE HON'BLE MR.JUSTICE G.K.ILANTHIRAIYAN

Crl.O.P.No.21125 of 2020

and

Crl.M.P.No.8985 of 2020

Manikandan

... Petitioner

Vs.

1.The State rep by
The Inspector of Police,
Thaalavadi Police Station,
Erode District.

2.P.G.Arumugam
Sub-Inspector of Police,
Thaalavadi Police Station,
Erode District.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for records in Crime No.194 of 2020 pending investigation on the file of the respondent police and to quash the same.

For Petitioner : Mr.R.Thirumoorthy
For Respondents : Mr.A.Gopinath
Government Advocate (Crl.Side)



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ORDER

This petition has been filed to quash the proceedings in Crime No.194 of 2020 on the file of the respondent police for the offences under Sections 271, 291 of IPC r/w 3 of the Epidemic Disease Act 1897, r/w 4(1)(a) of the Tamil Nadu Prohibition Act as against the petitioner.

2. The case of the prosecution is that the petitioner was in possession of 16 packets of 180 ml Karnataka liquor during lock down period. Hence, the complaint.

3. Heard both sides.

4. Even according to the case of the prosecution, the petitioner alleged to have been in possession of 16 packets of 180 ML capacity of Haywards Cheers Whisky. It is coming under the Indian-Made Foreign Liquor (IMFL). It was in possession of the petitioner during the lock down due to Covid-19 pandemic situation.

5. The learned counsel for the petitioner submitted that the rules prescribed under the Tamil Nadu Liquor (Possession For Personal



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Consumption) Rules, 1996 was that an individual can have possession of 1000 ml. By the subsequent Government orders, the quantity has been increased and accordingly, the petitioner can possess for his personal consumption up to 4.5 litres of Indian-Made Foreign Liquor. Whatever, the possession alleged to have been possessed by the petitioner, is below 4.5 litres. That apart, during Covid-19 the petitioner possessed the liquor of 16 packets of 180 ml Indian-Made Foreign Liquor for his personal consumption.

6. Insofar, the offence under Section 188 of IPC is concerned. The first respondent has no jurisdiction to register the FIR for the offence under Section 3 of the Epidemic Disease Act 1897, since, the provisions directed to be followed the procedure as enshrined under Section 188 of IPC. Insofar as the offence under Sections 271, 291 of IPC are concerned, the first respondent has no jurisdiction to register the FIR for those offences, since, the procedure mandatory under Section 155(2) of Cr.P.C., has not been followed by the first respondent. In view of the above, the FIR cannot be sustained as against the petitioner and it is



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liable to be quashed.

7. Accordingly, the FIR in Crime No.194 of 2020 on the file of the respondent police is hereby quashed. Accordingly, this Criminal Original Petition stands allowed. Consequently, connected Miscellaneous petition is closed.

05.07.2022

Internet : Yes / No
Index : Yes / No
Speaking / Non Speaking order
cda/mn

G.K.ILANTHIRAIYAN, J.



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mn

To

- 1.The Inspector of Police,
Thaalavadi Police Station,
Erode District.
- 2.Mr.P.G.Arumugam
Sub-Inspector of Police,
Thaalavadi Police Station,
Erode District.
- 3.The Public Prosecutor,
High Court, Madras.

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and
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