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Crl.O.P.No.25945 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2022

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.O.P.No.25945 of 2022
and Crl.MP.No.16010 of 2022

Anandhapandian

... Petitioner

/vs/

State rep.by
The Inspector of Police
Gummidipoondi F1 Police Station
Thiruvallur District.

... Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C. to call for the entire records pursuant to the FIR No.6 of 2019 on the file of respondent police and quash the same on the petitioner alone by allowing this criminal original petition.

For Petitioner ... Mr.M.Vignesh

For Respondent ... Mr.E.Raj Thilak
Addl.Public Prosecutor

ORDER

This Criminal Original Petition has been filed to call for the entire records pursuant to the FIR No.6 of 2019 on the file of respondent police



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and quash the same on the petitioner alone by allowing this criminal original petition.

2. The case of the prosecution is that the when the respondent police went for inspection near Shanthi Store G.N.T. salai they saw the petitioner sitting with some cover and when they approached and enquired about the packets he threatened the police officers with dire consequences and the police officers searched plastic bags and found Gudkha in the bag which was banned by the Tamil Nadu Government. Thereafter the respondent police registered FIR against the petitioner on 02.01.2019 in Crime No.6 of 2019 for the offences punishable under Sections 353, 506(1) of IPC & 24(1) of Cigarette and other Tobacco Products Acts, 2003 and for Offences under Sections 77, 78 of the Juvenile Justice Act 2015.

3. The learned counsel for the petitioner submitted that the allegations as stated in the FIR dated 02.01.2019 by the respondent police are false and he has not committed any offence. Therefore, the case registered against the petitioner is unsustainable and thus he pleaded to quash the FIR



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registered against the petitioner.

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4. The learned Additional Public Prosecutor submitted that the case is under investigation and hence objected to quash the FIR.

5. Heard both sides and perused the materials available on record.

6. A perusal of the FIR reveals that the respondent police registered a case against the petitioner in Crime No.6 of 2019 on 02.01.2019 for the offences punishable under Sections 353, 506(1) of IPC & 24(1) of Cigarette and other Tobacco Products Act 2003 and for offence under Sections 77, 78 of the Juvenile Justice Act, 2015. When the Sub Inspector of Gummidipundi, F1 Police Station went for inspection near Shanthi Store G.N.T. Salai, they saw the petitioner sitting with plastic cover and when they approached and enquired about the packets he threatened the police officers and the police searched the plastic bags and found Gudkha in it. Hence, the respondent police arrested the petitioner and enquired and seized the Gudkha and the plastic cover. Admittedly, there is no allegation that the petitioner sold



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Gudkha to school students but any how the case is under investigation. After completion of the investigation alone, what type of offence committed by the petitioner can be ascertained. Further on perusal of the impugned FIR, it is seen that the allegation therein would prima facie make out a case for investigation by the police authority and it does not meet the parameters laid down by the Supreme Court in *State of Haryana vs. Ch.BhajanLal* (AIR 1992 SC 604), *M/s Neeharika Infrastructure Pvt. Ltd. Vs. State of Maharashtra and others* (2021 SCC online 315) & *PRATIBHA RANI Vs.SURAJ KUMAR & ANR* (1985 Crl.L.J.817). Therefore, it is inappropriate to quash the FIR and close the investigation at the beginning stage. Therefore I find no merit and investigation in this case is to be conducted to find out the truth.

7. Accordingly, the criminal original petition is dismissed.
Consequently, connected miscellaneous petition is closed.

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Index:Yes/No
Speaking/Non speaking order
dpq



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V. SIVAGNANAM, J.

dpq

To

1. The Inspector of Police
Gummidipoondi F1 Police Station
Thiruvallur District.
2. The Public Prosecutor,
High Court, Madras.

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