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Crl.O.P.No.25753 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.10.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.O.P.No.25753 of 2022
and
Crl.M.P.Nos.15951 & 16021 of 2022

1.Palanisamy
2.Rajkumar
3.Mageswaran
4.Samsudeen
5.Bangaru
6.Mahalingam
7.Rameshraj
8.Saravanan
9.Senthil

... Petitioners

Vs.

The State by
The Inspector of Police,
Chithode Police Station,
Erode District.
Crime No.628 of 2019.

... Respondent

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the case in STC No.1371 of 2020 on the file of the Judicial Magistrate Court No.III, Erode and quash the same.

For Petitioners : Mr.M.Karthik

For Respondent : Mr.S.Santhosh,
Government Advocate (crl.side)



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ORDER

This Criminal Original Petition has been filed to quash the charge sheet in STC No.1371 of 2020 on the file of the Judicial Magistrate Court No.III, Erode for the offences under Sections 8 & 9 of TN Gaming Act, 1930.

2.The learned counsel for the petitioners submitted that according to the police, the petitioners were arrested during playing cards at Kaligarayan Recreating Club, Erode. The said club is not a common gaming house. Since the said club is not a common gaming house, the offences under Sections 8 & 9 of TN Gaming Act, 1930 will not attract. Hence, the present petition has been filed.

3.The learned Government Advocate (crl.side) appearing for the respondent submitted that in this case, investigation is under progress and there are no materials to show that the said Kaligarayan Recreating Club is a common gaming house.

4. I have considered the matter in the light of the submission made by the learned counsel for the petitioners and the learned Government Advocate

(Crl.side) for the respondent.



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5. On perusal of records, it is seen that the petitioners were arrested by the respondent police on 22.12.2019 at 11.35 hrs for playing cards at the Kaligarayan Recreating Club. Thereafter, a case has been registered against the petitioners and others in connection with a Crime No.628 of for the offences punishable under Sections 8 & 9 of TN Gaming Act, 1930 and filed the charged sheet before the the learned Judicial Magistrate No.III, Erode and the case has been taken up on file in STC No.1371 of 2020. According to the police, at the time of arrest, they have seized a sum of Rs.2,500/- along with 52 cards. However, the Kaligarayan Recreating Club is not a common gaming house. The definition of common gaming house in Tamil Nadu Gaming Act, 1930 is runs as follows:

“3.Definitions- In this Act, unless there is anything repugnant in the subject or context,-

(a) “Common gaming house” means any house, room, tent, enclosure, vehicle, vessel, cyber cafe or any place whatsoever in which instruments of gaming are kept or used for the profit or gain of the person owning, occupying, using or keeping such house, room, tent, enclosure, vehicle, vessel, cyber cafe or place, whether free of cost or by way of charge for the use of instruments of gaming or of the house, room, tent, enclosure, vehicle, vessel, cyber cafe or place; and includes any house, room,



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tent, enclosure, vehicle, vessel, cyber cafe or place opened, kept or used or permitted to be opened, kept or used for the purpose of gaming;”

6. In view of the above definition, the alleged premise is not a common gaming house. Unless the alleged occurrence took place at common gaming house, the offences under Sections 8 and 9 of TN Gaming Act, 1930 will not attract. Hence, it is liable to be quashed.

7. Accordingly, this Criminal Original Petition is allowed and the case in STC No.1371 of 2020 dated 10.03.2020 for the offences under Sections 8 & 9 of TN Gaming Act, 1930 on the file of the learned Judicial Magistrate No.III, Erode is quashed. Consequently, connected Criminal Miscellaneous Petitions are closed.

27.10.2022

Internet: Yes/No

Index: Yes/No

Speaking/Non speaking order

shk



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1. The learned Judicial Magistrate No.III,
Erode.
- 2.The Inspector of Police,
Chithode Police Station,
Erode District.
3. The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM,J.

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