



Crl.OP.No.30099 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2022

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.OP. No.30099 of 2022

Gokulram

.. Petitioner

-VS-

State rep. by
Inspector of Police,
Ramanathapuram Police Station,
Coimbatore District.

.. Respondent

Prayer: Petition filed under Section 482 of Cr.P.C. to call for the records and to quash the First Information Report in Crime No.417 of 2022 on the file of Ramanathapuram Police Station, Coimbatore District.

For Petitioner : Mr.M.Saravanakumar

For Respondent : Mr.S.Santhosh,
Government Advocate (Crl.Side)

ORDER

This petition is filed to call for the records and to quash the First Information Report in Crime No.417 of 2022 on the file of Ramanathapuram Police Station, Coimbatore District.



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2.The learned counsel for the petitioner submitted that the petitioner was made as an accused in Crime No.417 of 2022 for the offence under Section 8(c) and 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act and Section 328 of Indian Penal Code on the file of Ramanathapuram Police Station, Coimbatore District. It is further submitted by the learned counsel for the petitioner that there is no single piece of allegation that the accused used poison with an intent to commit an offence for causing hurt; the search shall be made in front of the Gazetted Officer, but the seizure has not been made in the presence of the Gazetted Officer. On these grounds, the learned counsel for the petitioner prays for quashing this petition.

3.The learned Government Advocate (Crl. Side) appearing for the respondent submitted that Ganja seized from the petitioner/ accused were meant to be supplied to the college students and therefore, serious hurt by means of poison, may be caused to them.

4.This Court heard the submissions made on either side and perused the documents available on record.



5.Considering the rival submissions made on either side and on going through the allegations made in the First Information Report, this Court, finds that accused 1 and 2 were found in possession of 220 and 140 grams of Ganja respectively. But there is absolutely no allegation with regard to the fact of accused using poison to cause hurt with an intent to commit an offence. Therefore, this Court finds that there is no ingredient for registering the complaint under Section 328 I.P.C. against the petitioner. Hence, the First Information Report registered under Section 328 I.P.C. is liable to be quashed.

6.So far as other submission with regard to the seizure that has to be conducted in the presence of Gazetted Officer is concerned, this Court finds from the F.I.R. allegations that the accused was offered to be taken to the Judicial Magistrate or the Gazetted Officer concerned. However, the accused/petitioner refused the said offer and now prayed that the search could be carried out by the Sub Inspector of Police. This Court finds no illegality in conducting search and recovery of contraband from the accused. Therefore, this Court finds no merits to quash the First Information Report registered under Section 8(c) and 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act.



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G.CHANDRASEKHARAN, J.

vga

7.In fine, this petition is partly allowed and the First Information Report registered against the petitioner for the offence under Section 328 of I.P.C. alone is quashed. The respondent police may proceed with the investigation of offence under Section 8(c) and 20(b)(ii)(A) of Narcotic Drugs and Psychotropic Substances Act and file a final report at the earliest.

06.12.2022

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To

1.State rep. by
Inspector of Police,
Ramanathapuram Police Station,
Coimbatore District.

2.The Public Prosecutor,
High Court, Madras.

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