



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.02.2022

CORAM

THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

CrI.O.P.(MD)No.2381 of 2022
and
CrI.M.P.(MD)No.1752 of 2022

C.Maharaja ...Petitioner/Accused No.7

Vs.

1.State represented by
The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.
(Crime No.1167 of 2020)

...Respondent/Complainant

2.Muthukumar
Special Sub Inspector,
Palayamkottai Police Station,
Tirunelveli.

...Respondent/
Defacto Complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No.1167 of 2020 on the file of Inspector of Police, Palayamkottai Police Station, Tirunelveli and quash the same as illegal as against this petitioner/Accused No.7 in the interest of justice.

For Petitioner : Mr.M.Mahendran
For Respondents : Mr.B.Thanga Aravindh
Government Advocate(CrI.Side)

ORDER

Heard the learned counsel for the petitioner and the learned Government Advocate for the respondents.

2. The petitioner is figuring as A7 in Crime No.1167 of 2020 registered on the file of Palayamkottai Police Station for the offence under Sections 45, 46 of TN City Police Act, 1888, Sections 8, 9 of TN Gaming Act, 1930 and Section 188, 269 IPC.

3. The case of the prosecution is that on 09.08.2020 at around 10.00 a.m., when the Police personnel attached to Palayamkottai Police Station were on their usual rounds, they came to know about the gambling for stakes on LS Marriage Hall, Ragumath Nagar. When



the Police personnel conducted a raid, they found that the accused were playing for stakes. A sum of Rs.4,58,800/- and as many as 23 two wheelers were also recovered. The impugned FIR was also registered.

4. The learned counsel for the petitioner submitted that the petitioner is a Law Graduate and that he is unable to get enrolment on account of pendency of this case. Therefore, he has filed this Criminal Original Petition for quashing the impugned FIR.

5. Per contra, the learned Government Advocate submitted that the final report has been filed as early as on 05.06.2021 and that no case for quashing has been made out.

6. I carefully considered the rival contentions and went through the materials on record.

7. It is seen that there was no recovery effected from the petitioner. None of the vehicles recovered belong to the petitioner. It is not the case of the respondents that the petitioner was suffering from any infectious disease. In any event, FIR should not be registered for the offence under Section 188 IPC as it runs counter to the ratio laid down in ***Jeevanantham and others Vs State reported in 2019 (1) MLJ (Cr1) 36.***

8. The place of occurrence is a regular wedding hall. It cannot be called as a gaming house. Therefore, the decision reported in ***2020 (3) MLJ (Cr1) 710*** will clearly apply to the facts of the case. The learned Counsel for the petitioner also relied on a decision in ***Pandiyarajan and others Vs State reported in 2020 (1) MLJ (Cr1) 578.*** The case on hand is squarely covered by the aforesaid decisions. The impugned FIR is quashed as far as the petitioner is concerned. The Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. The benefit of this order will not enure in favour of the other accused who have to independently canvas their case.

Sd/-

Assistant Registrar (T&P)

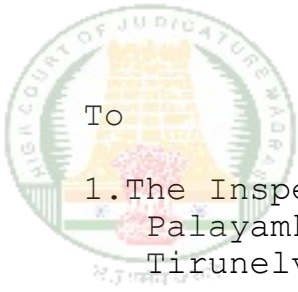
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/ /2022

Sub Assistant Registrar(CS)

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Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



To

1.The Inspector of Police,
Palayamkottai Police Station,
Tirunelveli.

2.The Special Sub Inspector,
Palayamkottai Police Station,
Tirunelveli.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1 CC to M/s.M.MAHENDRAN, Advocate (SR-4382[F] dated 07/02/2022)

Crl.O.P. (MD)No.2381 of 2022
04.02.2022

RD(18.02.2022) 3P 5C