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Crl.O.P.(MD)No.8460 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29/03/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.O.P. (MD)No.8460 of 2019

and

Crl.MP (MD)No.5312 of 2019

Manikandan : Petitioner/Sole Accused

Vs.

1.State rep. By

The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.
(Crime No.223 of 2019)

: R1/Complainant

2.Karthikeyan

: R2/De-facto complainant

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the records in Crime No. 223 of 2019 on the file of the 1st respondent and quash the same.

For Petitioner : Mr.K.Veilmuthu

For 1st Respondent : Mr.B.Nambi Selvan
Additional Public Prosecutor

For 2nd Respondent : No appearance



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O R D E R

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This criminal original petition is filed seeking quashment of the case in Crime No.223 of 2019 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

On 31/03/2019, the de-facto complainant was on vehicle check up, when he was working in the Flying Squad in Sattur, on the eve of the mid term poll in Sattur. At that time, he found a vehicle bearing registration No.TN-67-AR-2454 carrying 30 bottles of ACCORD liquor each of 180 ml and eight occupants were found. As per the instruction by the higher authorities, the vehicle as well as the liquor bottles were seized and the case has been registered in Crime No.223 of 2019 for the offences under section 4(1)(a) of the Tamil Nadu Prohibition Act and section 171(E) IPC.

3. Seeking quashment of the same, this petition is filed mainly on the ground that as per GO Ms.No.14, dated 09/06/2017, an individual is permitted to possess 4.5 litres of liquor. So according to the petitioner, 8 occupants are in the car including the driver. If it is



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calculated, the number of persons is well within the permitted limit as prescribed in the above said G.O.

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4.Heard both sides.

5.A short point, which arises for consideration is whether the possession of 30 bottles of liquor, each containing 180 mls of liquor, comes within the permissible limit, as set out in GO.Ms.No.14, dated 09/06/2017.

6.Section 4(1) (a) of Tamil Nadu Prohibition Act reads as follows:-

4.Prohibition of the manufacture of, traffic in, and consumption of liquor and intoxicating drugs--(1)Whoever-(a) Imports, exports, transports or possesses liquor or any intoxicating drug.

Provided that nothing contained in this sub-section shall apply.

(i)...

. *(ii)...*



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*(iii)to the transport or possession
for personal consumption the prescribed
quantity of any liquor specified by the
State Government under sub-clause (I) of
clause (j).]*

7.From the perusal of the above section, it is seen that if the possession of liquor comes within the permissible limit, then no case can be registered. So, as per the GO Ms.No.14, the permissible limit is 4.5 litres of Indian made foreign liquor per person. So if we calculate each 180 ml of 30 bottle, it will come around 5400 ml.

8.But here, the learned counsel appearing for the petitioner has pointed out that seven occupants in the car and if the bottles divided by seven, then it will come under the permissible limit of a person possessed. But I am unable to agree with the line of argument for the reason that who purchased the liquor and for what purpose, is not clear on record. During the course of the above said occurrence, the de-facto complainant was the Sub Inspector of Police in the Flying Squad. So when the Car was intercepted, the accused persons were in possession of 30 bottles of 180 ml each liquor. So, in all probabilities,



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they might have purchased for the purpose of supplying to the voters.

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9. But however, the fact remains that the offence is said to have taken place on 31/03/2019 and three years have lapsed and the final report was not filed before the court. Even though the learned Additional Public Prosecutor would submit that the final report was presented before the concerned court within time, a report has been called from the concerned court. It has been stated in the report that as on date, the final report was not submitted. But however, from the copy made available by the learned Additional Public Prosecutor, it was made ready on 16/06/2019 itself. Since, it has not been presented before the trial court, it is barred by limitation. It is seen that the offence under section 171(E) IPC is punishable upto one year. It is barred by limitation under section 468 Cr.P.C, since the maximum period of limitation for taking cognizance of the offence is one year. On that ground, this petition is liable to be allowed.



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10.In the result, this criminal original petition is **allowed**. The impugned FIR in Crime No.223 of 2019 on the file of the 1st respondent is hereby quashed. Consequently, connected Miscellaneous Petition is closed

29.03.2022

Internet:Yes/No
Index:Yes/No
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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.



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To,

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- 1.The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G . ILANGO VAN , J . ,

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