



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated:13/04/2022

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.17998 of 2019

and

Crl.MP(MD)No.10583 of 2019

1.V.Suresh Babu

2.Muthukumar

: Petitioners/A1 and A2

Vs.

1.The Inspector of Police,
Saptur Police Station,
Madurai District.
(Crime No.108 of 2012)

: R1/Complainant

2.Mr.Karumalayan

: R2/De-facto complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the case in CC No.47 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur and quash the same.

For Petitioners : Mr.J.Selvam

For Respondents : Mr.P.Kottai Chamy
Government Advocate
(Criminal side)

O R D E R

The petition has been filed seeking quashment of the case in CC No.47 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur.

2.The case of the prosecution in brief:-

The de-facto complainant was working as 'Forest Ranger' attached to Saptur Forest Range. On 25/08/2012 at about 11.15 pm, near the bridge on Saptur-M.Kallupatti, the accused persons were found in possession of Innova Car and having possession of SBBL gun without licence and they also in possession of 23 bullets. A3 was not having any proper licence. He gave the above said gun to A1. On the basis of the complaint given by the de-facto complainant, a case in Crime No.108 of 2012 was registered for the offences under section 25(1)(a) of Indian Arms Act r/w 3 of Indian Arms Act, 1959



and after completing the formalities of investigation, final report has been filed in CC No.80 of 2014 for the offence under sections 25 (1) (a) of the Arms Act, 1959.

3. Seeking quashment of the same, this petition has been filed on the ground that for initiating action under section 25(1-B) (a) of the Arms Act 1959, sanction under section 39 of the Arms Act has not been obtained from the concerned Collector.

4. Heard both sides.

5. Originally the matter was heard on the earlier occasion and at the instance of the petitioner, clarification was sought for from the learned Government Advocate (Criminal side). He would submit that the petitioners involved in two previous cases of similar nature. But the subsequent development of the above said cases are not available.

6. Even though the contention of the petitioners that they are not in possession of the above gun in conscious nature, I am not able to convince on this point. But on the sole ground of absence of sanction under section 39 of the Arms Act, without going into other aspects, this petition is liable to allowed.

7. In the result, this criminal original petition is **allowed**. The impugned in CC No.47 of 2019 on the file of the District Munsif-cum-Judicial Magistrate, Peraiyur is hereby quashed.

Sd/-

Assistant Registrar (Admin I)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

er

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 District Munsif Cum Judicial Magistrate,
Peraiyur, Madurai District.

2 The Inspector of Police,
Saptur Police Station,
Madurai District.

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

Crl.OP(MD)No.17998 of 2019
13.04.2022

MK/07.06.2022/3P/4C