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Crl OP No.6144 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.01.2023

CORAM:

The HONOURABLE MS.JUSTICE R.N.MANJULA

Crl OP No.6144 of 2021
and Crl MP Nos.4045 & 4046 of 2021

1.Mahesh @ Mareeswaran
2.Ayyadurai

.. Petitioners

VS

State Represented By
The Inspector of Police,
K – 10 Koyambedu Police Station,
Chennai – 600 107.

.. Respondent

Petition filed under Section 482 of Cr.P.C to call for the records pertaining to the C.C.No.2498 of 2020 on the file of V Metropolitan Magistrate Court, Egmore, Chennai – 8 and quash all further proceedings against the petitioner.

For Petitioners : Mr.M.S.Soundararajan

For Respondent : Mr.A.Gopinath
Government Advocate
(Criminal Side)

ORDER

1. This Criminal Original Petition has been filed to call for the records pertaining to the case in Crime No.1077 of 2019 on the file of the respondent / police.



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2. The case of the prosecution is that on 22.11.2018 at about 1.00 p.m., when the police was patrolling near the School, the petitioner / accused standing with Honda Activa two-wheeler bearing Registration No. TN-20 AQ 5508 in a suspicious manner and he was intercepted and inquired. It is also found that he was having white colour bags containing prohibited cigarette and tobacco products like *hans*, *remo*, *mdm*, *cool-lip* and later when the search was made at his house, it is found that he was having prohibited cigarette and tobacco products in several boxes and they were also seized.

3. Since the petitioner was having those prohibited tobacco products for sale, a case was registered against the petitioner / accused for the offences punishable under Sections 6(b) and 24(1) Cigarettes and Other Tobacco Products Act, 2003 read with Sections 353, 506(i) IPC. After investigation, the charge-sheet is also filed.

4. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the respondent.



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5. The learned counsel for the petitioner submitted that even at the time when the petitioner was intercepted by the respondent / police, he is stated to have possessed the materials and further he was not selling the same. The learned counsel further submits that, the Officer who had registered the FIR himself had intercepted the petitioner. There is no independent witnesses while seizure was made in the house of the petitioner. Since the materials available on record do not disclose a prima facie case for the offences charged by the respondent / police and the case is also not believable, the charge-sheet filed by the respondent should be quashed.

6. The learned Government Advocate (Criminal Side) has submitted that the petitioner was found near the School area and he was having the prohibited items in a white bag only for the purpose of sale. Number of boxes of prohibited tobacco products found in the house of the petitioner itself would prima facie show that the case is made out. Only after thorough investigation, the charge-sheet has been filed.



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7. The records would show that the accused was found in the School area with the white bag containing tobacco products and the products found in the bag were seem to be the prohibited tobacco products. Apart from the materials seized from the petitioner, in a search made at his house, Rs.3,85,000/- worth prohibited products like Hans 20 box, Remo – 10 box, Cool-lip – 20 Box, MDM – 1 Box, Vimal Pan Masala – 5 Box, V1 Tobocca – 10 Bos, Swagath Tobocca – 20 Boxes have been seized along with cash of Rs. 7,84,735/-. Such huge amount along with number of prohibited products cannot be presumed as mere possession for no purpose and specifically without any of selling the same. Since the police has recovered lakhs of money and many boxes of prohibited products from the house of the petitioner, it cannot be imagined that those objects were implanted by the respondent / police for the purpose of this case.

7. Storing of prohibited tobacco products in large scale is also a prima facie suspicious circumstance for the registration of a case. The petitioner was storing the banned tobacco products at his



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house and the cash amount seized from him was also not denied that it was not the sale proceeds of the banned products. It is not a case which does not disclose any prima facie case and which could end up in acquittal even if it is not unrefuted.

8. In view of the above said reasoning and in view of the powers exercisable under Section 482 of Cr.P.C., this Court is of the opinion that it is not a fit case to quash the proceedings. Accordingly, this criminal original petition is dismissed. Consequently, connected miscellaneous petition is closed.

09.01.2023

Index:Yes/No
Neutral Citation:Yes/No
ssm

To

- 1.The V Metropolitan Magistrate Court,
Egmore, Chennai – 8
- 2.The Inspector of Police,
K – 10 Koyambedu Police Station,
Chennai – 600 107.
- 3.The Public Prosecutor,
High Court, Madras.



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R.N.MANJULA.,J

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