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Crl.O.P No.17664 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.08.2023

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.17664 of 2023

and

Crl.M.P.No.11605 of 2023

Vellingiri
S/o.Palanisami

... Petitioner

vs.

The Inspector of Police,
Variety Hall Road Police Station,
Coimbatore City.
Crime No.41 of 2023

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the entire records pertaining to the case in Crime No.41 of 2023 on the file of first respondent and quash the same as against the petitioner.

For Petitioner : Mr.R.Ramasamy

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

This Criminal Original Petition has been filed challenging the First Information Report in Crime No.41 of 2023 on the file of respondent.

2. The case of the prosecution is that based on a secret information, the shop belonging to the petitioner was inspected and it was found that the shop contained Auromine powder. Accordingly, a First Information Report came to be registered for an offence u/s.284 IPC in Crime No.41 of 2023 on the file of respondent. The same has been put to challenge in this petition.

3. Heard Mr.R.Ramasamy, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor appearing for respondent.

4. The issue involved in the present case is squarely covered by the earlier order passed by this Court in Crl.O.P.No.16898 of 2023, dated 27.07.2023. For proper appreciation, the relevant portions are extracted hereunder:

"4.In the considered view of this Court, the very registration of the FIR for offence under Section 284 of IPC is unsustainable. On a careful reading of Section 284 of IPC, it is seen that the offence is made out only where a person does anything in a manner so rash or negligent with any poisonous substance so as to endanger human life or is likely to cause hurt or injury to any person. The same test is applicable even where



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there is an omission done knowingly or negligently which will cause danger to human life.

5. In the instant case, the petitioner is running a chemical shop and he was found to be in possession of Auromine powder. The respondent police has come to a conclusion that Auromine powder is a poisonous substance. Whereas, the learned counsel for the petitioner has brought to the notice of this Court the proceedings of District Collector, Coimbatore dated 07.10.2000, which shows that the dealers and merchants of dyes and chemicals are permitted to sell Auromine powder. The only restriction is that they should not sell it in small quantities to grossery merchants and petty shops keepers. In view of the same, it is not known as to how the respondent police came to a conclusion that the Auromine powder is a poison.

6. Yet another ground that has been raised is that if really the substance is found to be poisonous, the search must be conducted after getting necessary orders from the District Magistrate or on the warrant issued by the Commissioner of Police under Section 7 of the Poisons Act, 1919. Thereafter, on seizure, if it is found to be a poisonous substance which is handled without a proper license, subsequent action should be taken against the concerned person. Even this procedure has not been followed in this case and the respondent police has straight away come to a conclusion that Auromine powder is poisonous.

7. In the light of the above discussion, the FIR that was registered by the respondent police in Crime No.42 of 2023 is unsustainable and the same is liable to be quashed by this Court and accordingly, it is quashed. If according to the respondent, the sale of Auromine powder by the petitioner is poisonous, the respondent police has to necessarily follow the procedure and take action in accordance with law."

5. Even in the present case, the reasoning that was given in the above order would squarely apply. In view of the same, the First Information Report



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registered in Crime No.41 of 2023 on the file of respondent is hereby quashed.

If, according to the respondent, the sale of Auromine powder by the petitioner is poisonous, the respondent shall follow the procedure and take action in accordance with law.

This Criminal Original Petition is allowed in the above terms. Connected miscellaneous petition is closed.

07.08.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
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To

1.The Inspector of Police,
Variety Hall Road Police Station,
Coimbatore City.
Crime No.41 of 2023

2.The Public Prosecutor,
High Court, Madras.

Crl.O.P No.17664 of 2023