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CrI.O.P.No.19086 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

CrI.O.P No.19086 of 2023

and

CrI.M.P.No.12775 of 2023

Kathiresan

...Petitioners

vs.

The Inspector of Police,
Selvapuram Police Station,
Coimbatore City
Crime No.90 of 2023

...Respondents

PRAYER:

Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the entire records pertaining to the case FIR in Crime No.90 of 2023 on the file of the respondent police and quash the same as against the petitioner.

For Petitioners : Mr.R.Ramasamy

For Respondents : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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2.The case of the prosecution is that the petitioner was found in possession of Auromine. On a surprise check that was conducted by the police, the petitioner was found to be in possession of nearly 225 Kgs of Auromine powder in his shop. Based on the same, FIR has been registered for the offence under Section 284 of IPC.

3.Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor.

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



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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.



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7.In the light of the above discussion, the FIR that was registered by the respondent police in Crime No.90 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.

8.In the result, this criminal original petition is allowed in the above terms. Consequently, connected miscellaneous petition is closed.

23.08.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
nsa

To

1.The Inspector of Police,
Selvapuram Police Station,
Coimbatore City
Crime No.90 of 2023

2.The Public Prosecutor,
Madras High Court,
Chennai 600 104..



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N. ANAND VENKATESH, J.

nsa

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