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Crl.O.P.No.23108 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2023

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No.23108 of 2019

and

Crl.M.P.Nos.12098 & 12099 of 2019

1.M/s.Madathil Bros,
Rep. by its Managing Partner
Mr.Ajay Kumar Gulecha,
No.158, 2nd Floor, Gulecha Towers,
Arcot Road, Vadapalani,
Chennai - 600025.

2.Mr. Ajay Kumar Gulecha

... Petitioners

Vs.

1.State Rep. by
The Drug Inspector,
Intelligence Wing,
O/o. The Director of Drugs Control,
D.M.S.Campus,
359, Anna Salai, Teynampet,
Chennai - 600006.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code seeking to call for the records and quash the proceedings pending as far as the petitioners are concerned in C.C.No.5086/2017 pending on the file of the learned Metropolitan Magistrate No.IV, Saidapet, Chennai.



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For Petitioners : M/s.K.Balasubramaniam

For Respondent : Mr.A.Damodaran, Addl. Public Prosecutor,
for sole respondent.

ORDER

The petition is to quash the complaint filed for the alleged offence under Section 18(c) of the Drugs and Cosmetics Act 1940 read with Section 27 (b) (ii) of the said Act.

2. It is alleged in the complaint that the petitioner had stored drugs in his premises without having a valid licence.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the premises in which the inspection was conducted by the respondent and he had leased it out to one Mr.R.Ashok Kumar and therefore, he cannot be made liable for the alleged offence.

4. The learned Additional Public Prosecutor would however submit that the respondent had made enquiries and found that there is no such person by name Mr.R.Ashok Kumar, residing at the address given by the



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petitioner. He submitted that since the statement made by the petitioner, that he is the owner of the premises and he had leased it out to one Mr.R.Ashok Kumar cannot be believed at this stage, the impugned complaint cannot be quashed.

5. This Court finds that the point raised by the petitioner that he did not store the drugs in the premises and it was stored by the tenant Mr.R.Ashok kumar is factual in nature and cannot be adjudicated in this quash petition. It is for the petitioner to establish before the Trial Court that he had leased out the premises to a third person. Hence this Court is not inclined to quash the above petition.

6. Accordingly, the Criminal Original Petition stands dismissed. Consequently, the connected Miscellaneous Petitions are closed.

20.04.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
shr



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To

1 The Drug Inspector,
Intelligence Wing,
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2.The Metropolitan Magistrate No.IV, Saidapet, Chennai.



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SUNDER MOHAN. J,

shr

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