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Crl.O.P.No.21662 of 2023

In the High Court of Judicature at Madras

Dated : 27.9.2023

Coram :

The Honourable Mr.Justice N.ANAND VENKATESH

Criminal Original Petition No.21662 of 2023
& Crl.M.P.Nos.14973 & 14974 of 2023

Murugan

...Petitioner

Vs

1.The State of Tamil Nadu,
rep.by the Inspector of
Police, J-5 Sasthri Nagar
Police Station, Besant Nagar,
Chennai.

2.D.Selvamani

...Respondents

PETITION under Section 482 of the Criminal Procedure Code
praying to call for the records and quash the impugned charge sheet
in S.C.No.325 of 2023 on the file of the 6th Additional Judge,
Chennai.

For Petitioner : Mr.R.Harikrishnan
For Respondent-1 : Mr.A.Gopinath, GA (Crl.Side)

ORDER

This is a petition filed by the petitioner seeking to quash the



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proceedings in S.C.No.325 of 2023 on the file of the 6th Additional Judge, City Civil Court, Chennai.

2. The case of the prosecution is as follows :

(i) On 10.1.2023 at about 11 AM, an information was received by the Sub-Inspector of Police of Sasthri Nagar Police Station and based on the same, a team of police officers went to the Damodharapuram Second Street and conducted an enquiry. On seeing the police, accused Nos.1 and 2 attempted to escape from the place. They were interrogated and a search was made and as a result, a quantity of 430 Kgs. of gutka was seized. Thereafter, the sample drawn was sent for chemical analysis. A first information report came to be registered on 10.1.2023 as against two named accused persons for offences under Section 328 of the Indian Penal Code and under Section 20(2) of the Cigarette and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003.

(ii) During the course of investigation, two more accused persons were added based on the confession statements. On completion of the investigation, a final report was filed before the 9th



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Metropolitan Magistrate, Saidapet, Chennai-15 as against four accused persons. The petitioner herein has been arrayed as the fourth accused in the final report.

3. This Court has heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) appearing for the first respondent.

4. The main ground that was urged by the learned counsel for the petitioner is that the 9th Metropolitan Magistrate, Saidapet, Chennai-15 had taken a rubber stamp cognizance of the final report and hence, the same requires interference by this Court.

5. The 9th Metropolitan Magistrate, Saidapet, Chennai-15 had taken cognizance of the final report in the following manner :





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6. This Court, by relying upon the judgments of the Apex Court, has been repeatedly holding that rubber stamp cognizance cannot be taken and that the process of taking cognizance is a judicial act, which requires application of mind. Useful reference can be made to the common order rendered by me in the case of ***Shanmugam & Others Vs. Inspector of Police, Ariyalur Police Station, Ariyalur [reported in 2019 (2) L.W. (Crl.) 263]***. In view of the above, the rubber stamp cognizance taken by the learned 9th Metropolitan Magistrate, Saidapet, Chennai-15 is liable to be interfered with.

7. Accordingly, the cognizance order dated 10.5.2023 passed by the learned 9th Metropolitan Magistrate, Saidapet, Chennai-15 is hereby set aside. The matter is remanded back to the file of the learned 9th Metropolitan Magistrate, Saidapet, Chennai-15. The learned Magistrate shall apply his mind and pass appropriate orders while taking cognizance of the final report. This process shall be completed within a period of four weeks from the date of receipt of a copy of this order. Thereafter, the case shall be committed to the file of the 6th Additional Judge, City Civil Court, Chennai within a period of four weeks thereafter.



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8. The above criminal original petition is disposed of in the above terms. Consequently, the connected Crl.M.Ps. are closed.

27.9.2023

To

- 1.The 6th Additional Judge, City Civil Court, Chennai.
- 2.The 9th Metropolitan Magistrate Court, Saidapet, Chennai.
- 3.The Inspector of Police, J-5 Sasthri Nagar Police Station, Besant Nagar, Chennai.
- 4.The Public Prosecutor, High Court, Madras.

RS



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N.ANAND VENKATESH,J

RS

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