



Crl OP No.26878 of 2019

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 30.03.2023

CORAM :

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P.No. 26878 of 2019

and

Crl.M.P.No. 14327 of 2019

Mani

... Petitioner

Versus

1.State Rep By
Inspector of Police,
Tindivanam Police Station,
Villupuram District.

2.Muniyammal

... Respondents

PRAYER : Criminal Original Petition has been filed under Section 482 of the Criminal Procedure Code, to call for the records in S.T.C.No.206 of 2019 on the file of the Learned Judicial Magistrate No.1, Tindivanam Villupuram District for the offence under Section 9 (B) (1) (b) of the Explosives Act and quash the same.



Crl OP No.26878 of 2019

WEB COPY

For Petitioner : Mr. C.Mohan Raj
For Respondent 1 : Mr. A.Damodaran
Additional Public Prosecutor
For Respondent 2 : No Appearance.

ORDER

The petition has been filed to quash the final report filed for the offences under Section 9 (B) (1) (b) of the Explosives Act.

2. The allegation against the petitioner is that when the respondent inspected the premises, he was found in possession of Fire works to the value of a sum of Rs.1,000/- at Nehru Street, Tindivanam, without a valid licence.

3. The learned counsel for the petitioner submits that the petitioner had a valid temporary licence to sell the Fire works and the said licence was issued by the DRO, Villupuram, for a period



Crl OP No.26878 of 2019

between 04.11.2018 to 07.11.2018. The learned counsel would submit that the petitioner had also applied for permanent licence.

The learned counsel for the petitioner would further submit that the final report was a result of a motivated complaint given by the petitioner's neighbour. The petitioner did not possess the Fire works for the purpose of sale. These Fire works valued at Rs.1,000/- were the left overs which could not be sold during the previous Deepawali season when the temporary licence was in force. The possession of Fire works therefore cannot be said to be in violation of the Explosives Act. The learned counsel for the petitioner relied upon the order passed by this Court in ***Crl.O.P.No.26412 of 2019*** dated ***01.10.2019***, wherein, this Court had quashed a similar complaint against the father of the petitioner herein.

4. The learned Additional Public Prosecutor submits that the petitioner though had a temporary licence, it was valid only from 04.11.2018 to 07.11.2018. However, on the date of inspection, the petitioner was found in possession of the Fire works worth a sum of



Crl OP No.26878 of 2019

Rs.1,000/- without any valid licence.

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5. This Court on a perusal of the impugned final report and the materials relied upon by the learned counsel for the petitioner finds that the petitioner had temporary licence to sell Fire works for the period from 04.11.2018 to 07.11.2018. It is also seen that this temporary licence was granted to enable the petitioner to sell fire works during the previous Deepawali season. The petitioner had applied for the permanent licence and had also obtained no objection certificate from the Fire and Rescue Service Department, Villupuram, which states that the petitioner can be granted licence for selling Fire works. While so, the petitioner was found in possession of the Fire works to the tune of Rs.1,000/-.

6. Since the value is negligible, this Court is inclined to accept the petitioner's version that the seized Fire works were not intended for sale and were those that could not be sold during the previous Deepawali season. In such circumstances, the petitioner's



Crl OP No.26878 of 2019

possession of the Fire works cannot be said to be in violation of the Explosives Act.

7. For the above said reasons, the impugned complaint for the offences under Section 9 (B) (1) (b) of the Explosives Act, cannot be sustained. Hence, the impugned proceedings in S.T.C.No. 206 of 2019 on the file of the Judicial Magistrate I, Tindivanam, Villupuram, is quashed. The Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petition is closed. No costs.

30.03.2023

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Index: Yes/No

Speaking Order / Non-Speaking Order

Neutral Citation: Yes / No



Crl OP No.26878 of 2019

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To

1. The Judicial Magistrate I, Tindivanam,
Villupuram.



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Crl OP No.26878 of 2019

SUNDER MOHAN, J

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Crl.O.P.No. 26878 of 2019

30.03.2023