



WEB COPY



Crl.O.P.No.27217 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

CORAM:

THE HONOURABLE MR. JUSTICE **G.CHANDRASEKHARAN**

Crl.O.P.No.27217 of 2022

and

Crl.M.P.No.16732 of 2022

S.Udhayan

... Petitioner

Vs.

The State Represented by,
Sub-Inspector of Police,
Royapuram Police Station,
Washermanpet Police District,
Chennai.
(Crime No.643 of 2016)

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the FIR in Crime No.643 of 2016 on the file of the Inspector of Police, Royapuram Police Station, Washermanpet Police District, Chennai and to quash the same.

For Petitioner : Mr.C.Prabakaran

For Respondent : Mr.S.Santhosh
Government Advocate (Crl. Side)



Crl.O.P.No.27217 of 2022

ORDER

WEB COPY This Criminal Original Petition is filed to call for the records relating to the FIR in Crime No.643 of 2016 on the file of the Inspector of Police, Royapuram Police Station, Washermanpet Police District, Chennai and to quash the same.

2. It is the submission of the learned counsel for the petitioner that the petitioner is an accused in Crime No.643 of 2016 registered for offences under Sections 4,8 and 9 of the Tamil Nadu Gaming Act, 1930; Section 7 (3) of the Lotteries Regulation Act, 1998 and Sections 353 and 506 (i) of the Indian Penal Code, 1860.

3. It is the submission of the learned counsel for the petitioner that Tamil Nadu Gaming Act, 1930 cannot be made applicable to Chennai City as per Section 2 of the Tamil Nadu Gaming Act, 1930. That apart, he submitted that the offences are punishable under Tamil Nadu Gaming Act, 1930, Lotteries Regulation Act, 1998 and Indian Penal Code concerned in this case are punishable with the imprisonment to the maximum period of two years. FIR was registered on 03.07.2016. Till now, no final report is filed. Even if it



is filed, there is a bar under Section 468 of Cr.P.C. for taking cognizance.

WEB COPY

4. Learned Judicial Magistrate is yet to take cognizance of the aforesaid offences, thus he prayed for quashing the proceedings in Crime No.643 of 2016.

5. In response to that Government Advocate submitted that the investigation is pending and final report is not filed so far.

6. Heard the rival submissions and perused the records.

7. Section 2 of the Tamil Nadu Gaming Act, 1930 reads as follows:

*2.Extent. - This Act extends to the whole of the
[State of Tamil Nadu] with the exception of the City of
[Chennai] as defined in the Chennai City Police Act,
1888 [Tamil Nadu] Act III of 1888).*

This Section makes it clear that Tamil Nadu Gaming Act, 1930 cannot be made applicable to the City of Chennai. Therefore, this Court is of the view that the submission made by the learned counsel for the petitioner that the



registration of FIR under Sections 4, 8 and 9 of the Tamil Nadu Gaming Act,

1930 against the accused is illegal is correct.

8. The Punishment provided for the offences under Section 7 (3) of the Lotteries Regulation Act, 1998 is rigorous imprisonment for a term which may extend to two years or with fine or with both. The punishable provided for the offences under Section 353 of the Indian Penal Code, 1860 is imprisonment of either description for a term which may extend to two years, or with fine, or with both. The punishment provided for the offences under Section 506 (i) of the Indian Penal Code, 1860 is imprisonment of either description for a term which may extend to two years, or with fine, or with both. Therefore, even if the final report is filed in this case, there is bar under Section 468 of Cr.P.C. against taking cognizance of the offences. The reason is that the final report ought to have been filed within a period of three years from the date of commission of offence, if an offence is punishable with imprisonment exceeding one year and not exceeding three years. So far, final report is not filed despite registration of FIR under Section 468 of Cr.P.C. Therefore, continuance of proceedings against the petitioner in Crime No.643 of 2016 is an abuse of process of law and therefore, the proceedings in FIR in



Crl.O.P.No.27217 of 2022

Crime No.643 of 2016 is quashed against the petitioner.

WEB COPY

9. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected Miscellaneous Petition is closed.

20.03.2023

ab

Internet: Yes

Index: Yes/No

Speaking/Non speaking order

Neutral Citation Case: Yes / No

To:

1. The Sub-Inspector of Police,
Royapuram Police Station,
Washermanpet Police District,
Chennai.

2. The Public Prosecutor,
High Court of Madras.



WEB COPY



Crl.O.P.No.27217 of 2022

G.CHANDRASEKHARAN, J.

ab

Crl.O.P.No.27217 of 2022

20.03.2023