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Crl.O.P.No.30961 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.06.2023

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THE HONOURABLE MR. JUSTICE SUNDER MOHAN

Crl.O.P. No.30961 of 2019

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Crl. M.P.Nos.16817 & 16818 of 2019

Jayapal

... Petitioner

Vs.

State by Inspector of Police
Kothavalchavadi Police Station,
Chennai.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Criminal Procedure Code, to call for the records relating to the proceedings in C.C.No.1769 of 2019 on the file of the Metropolitan Magistrate No.VIII, George Town, Chennai.

For Petitioner : Mr. S.Senthilnathan

For Respondent : Mr. A.Damodaran
Additional Public Prosecutor.



ORDER

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The petition is to quash the final report for the alleged offences under Section 286 of IPC and Section 9 (B) (1) (b) of the Explosives Act, 1884.

2. It is alleged in the final report that the respondent received a secret information and pursuant to which they had inspected the residence of the 1st accused on 30.08.2018 at about 4 p.m.; that on inspection they found 82 small boxes and 9 big boxes of fire crackers labeled Jai Maruthi Sparklers, without any safety measures and license; that the 1st accused on seeing the Police personnel had threatened them with dire consequences; that the respondent Police seized the fire crackers in the presence of two other Police Constables attached to the 1st respondent Police Station; that on the confession of the 1st accused, it was found that the petitioner / 2nd accused was also a partner along with the 1st accused.

3. The learned counsel for the petitioner would submit that the



petitioner was arrested on the next day based on the confession of the 1st accused. The learned counsel would submit that the petitioner has been charged for the offences under Section 286 of IPC and Section 9 (B) (1) (b) of the Explosives Act. There is no allegation against the petitioner that he was present at the residence of the 1st accused when the seizure was made by the respondent Police. The learned counsel would further submit that the only material available in the final report against petitioner is the confession statement of the 1st accused. There is no other legally admissible material to prosecute the petitioner.

4. The learned Additional Public Prosecutor on instructions submitted that the petitioner and the 1st accused were originally partners and were running a shop and when the shop suffered a loss, they had sold the shop and out of the sale proceeds, they purchased fire crackers and doing business jointly. The learned Additional Public Prosecutor however fairly admitted that apart from the confession of the 1st accused there is no other evidence.

5. This Court finds that since there is no other material except for



Crl.O.P.No.30961 of 2019

the confession statement of the 1st accused against the petitioner, no useful purpose would be served in allowing the prosecution to continue as against the petitioner. It is not the case of prosecution that the petitioner was present at the residence of the 1st accused. Further, there is no other document to suggest that the 1st accused had purchased crackers jointly along with the petitioner. In such circumstances, this Court is of the view that the impugned final report is liable to be quashed as against the petitioner alone. The learned VIII Metropolitan Magistrate, George Town, Chennai, shall proceed with the other accused, in accordance with law.

6. In the result, the petition is allowed. Consequently, the connected Miscellaneous Petitions are closed. No costs.

08.06.2023

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

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Crl.O.P.No.30961 of 2019

To

1. The VIII Metropolitan Magistrate,
George Town,
Chennai

2. The Inspector of Police
Kothavalchavadi police Station,
Chennai.



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Crl.O.P.No.30961 of 2019

SUNDER MOHAN. J,

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CrI.O.P.No. 30961 of 2019

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