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Crl.OP(MD)No.4929 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Date of Reservation : 16/03/2023

Date of Pronouncement : 14/08/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.OP(MD)No.4929 of 2023

and

Crl.MP(MD)No.4334 of 2023

Abdul Sherif : Petitioner/Sole Accused

Vs.

1.The State rep. by
The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli. : R1/Complainant

2.A.Challathangam,
The Sub Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli/ : R2/De-facto complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records relating to the impugned FIR in Crime No.26 of 2022 pending on the file of the 1st respondent, and to quash the same and pass such further or other orders.

For Petitioner : Mr.M.A.M.Raja

For Respondents : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)



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This criminal original petition has been filed seeking quashment of the FIR in Crime No.26 of 2023, on the file of the first respondent.

2.The case of the prosecution in brief:-

The de-facto complainant is the Head Constable attached to the Talayuthu Police Station. According to him, along with the police team, he was under routine patrolling duty. At that time, near the Government Hospital, they found one man along with school going student in a suspicious manner. On seeing the police party, all the accused tried to run away from the place of occurrence. So apprehended. On suspicion search was made. At that time, he was found in possession of tobacco products which are banned by the Government. On the basis of the above said, he was arrested and a case was registered as stated above.

3. Seeking quashment of the same, this petition has been filed stating that only on the basis of the confession statement of the A1, he has been roped in and no information has been gathered with regard to his involvement in the above said act.



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4. Heard both sides.

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5. Reading of the FIR shows that only Jeyaprakash (A1) was found in possession of the banned tobacco near High School, indulged in selling the products to the school going children.

6. According to the prosecution, during the course of investigation, the involvement of the petitioner also came to light. So he has also been implicated.

7. In the FIR, it has been stated that on enquiry, the A1-Jayaprakash told the police team that he used to purchase the tobacco from this petitioner in bulk and was selling the same in his shop. Later because of the frequent police raid, he discontinued selling the same in the shop and later shifted to other area and was selling the same to the school going children. So except this statement of A1 namely Jeyaprakash, it appears that no other material is available. But the investigation is at the preliminary stage.

8. Only at the conclusion of the investigation, the involvement of the petitioner will come out. Even in



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the FIR, it is seen that this petitioner's name is mentioned as Sulthan. According to the petitioner, his correct name is Abdul Sherif.

9. Whether there is any identification issue or not can be a matter for consideration by the Investigating officer. So even for the benefit of the petitioner also, the investigation must be permitted to be taken to its logical conclusion. This is a preliminary stage to quash the proceedings.

10. In the result, this criminal original petition stands **dismissed**. But however, considering the oldness of the case, there shall be a direction to the respondent to complete the investigation process within a period of three months from the date of receipt of a copy of this order. If the petitioner is aggrieved over the contents of the final report, he can work out his remedy through appropriate forum in the manner known to law. Consequently, connected Miscellaneous Petition is closed.

Index: Yes/No
Internet: Yes/No
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14/08/2023



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To,

- 1.The Inspector of Police,
Thalaiyuthu Police Station,
Tirunelveli.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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