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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 27/04/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP(MD)No.3386 of 2023

P.Padmanathan : Petitioner

Vs.

1.The Superintendent of Police,
Theni District,
Theni.

2.The Inspector of Police,
Prohibition Enforcement Wing (PEW),
Theni District. : Respondents

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, directing the 2nd respondent not to interfere by harassing the petitioner and his livelihood under the guise of enquiry frequently and pass such further or other orders.

For Petitioner : Mr.M.Jagadeesh Pandian

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

**O R D E R**

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This criminal original petition is filed seeking direction to the 2nd respondent not to interfere by harassing the petitioner and his livelihood under the guise of enquiry.

2.The facts in brief:-

The petitioner is conducting a tiffin centre from the month of September 2022 in Survey No.1766/4. On 16/09/2022 at about 03.00 pm, the employees of the TASMAC shop came to his tiffin centre, saying that because of his business, the licensee, who is conducting the bar in the above said TASMAC shop is affected. He was taken to the police station forcibly, where he was threatened not to continue the above said business. He was taken to the Judicial Magistrate Court, Tirunelveli, where he was asked to pay a sum of Rs.500/- as fine amount and he paid the fine amount on 11/01/2013 and 09/02/2023 and thereafter, he continuing the tiffin centre. Again, trouble was made by PEW and the employees of the above said TASMAC shop. They were also making threat to the petitioner to discontinue the business. Again, another



So he sent a detailed representation to the Superintendent of Police, Theni District and other officials not to threaten him or foist false cases with a view to force him to discontinue the business. Since the above said representation was not considered, this petition has been filed.

3.Heard both sides.

4.Right to avocation, the business is a basic right of every human being, apart from the Constitutional Right. This cannot be objected either by the TASMAC management or by the PEW or police force.

5. But per contra, the learned Government Advocate (Criminal side) would submit that the petitioner is running an un-lincenced bar and in the above said tiffin centre selling the same to the customers. On that account, several cases have been registered against him. The last one is Crime No.110 of 2023, on 01/02/2023. He has also produced a copy of the FIR.



6.By relying upon those documents, it has been submitted that continuously, the petitioner is engaged in selling the liquor illegally. To cover up the illegal activities only, he sent a representation and filed this petition.

7.A detailed counter affidavit has been filed by the Inspector of Police, attached to Prohibition Enforcement Wing, Theni, wherein, it has been stated that licensed TASMAL shop is located 50 meter from the shop of this petitioner and on various occasions, he was found selling the liquor to the customers illegally, over which only, several cases have been registered and despite that, the petitioner has not corrected himself.

8.The answer to the counter affidavit by the petitioner is that all the cases have been foisted only to support the business of the bar canteen owner. Whether the above said TASMAL shop is having a separate canteen along with the above bar is the only point for consideration by this court in this petition. It involves factual issue. But however, from the conduct of the petitioner, it is seen that he has invited unnecessary



trouble in selling the liquor to the customers illegally. If he is a genuine person, he ought to have contested all the cases registered against him. Instead of contesting them, he admitted the guilt and paid the fine amount.

9. Now the allegation is that only under force and threat, he has admitted the above said offences. But this sort of contention cannot be accepted. Without any proper materials, it appears that to prevent the respondent from registering the cases against him, this petition has been filed stating that harassment has been made. Absolutely, I find no material to support the case of the petitioner. So, I find no reason to entertain this petition and accordingly, it is liable to be dismissed.

10. In the result, this criminal original petition is **dismissed**.

27/04/2023

Index: Yes/No
Internet: Yes/No
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To,
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- 1.The Superintendent of Police,
Theni District,
Theni.
- 2.The Inspector of Police,
Prohibition Enforcement Wing (PEW),
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G. ILANGO VAN, J

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