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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated: 27/03/2023

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The Hon'ble Mr. Justice **G. ILANGO VAN**

Cr1.OP(MD)No.4729 of 2023

and

Cr1.MP(MD)Nos.4166 and 4168 of 2023

- 1.Siva Raman
- 2.Subramaniyan
- 3.Sri Renga Raman
- 4.KTS.Palaniyappan
- 5.Renganathan
- 6.Selva Thurai
- 7.Muthukrishnan
- 8.Saravanan
- 9.Nagaraj
- 10.Madhavan
- 11.Murugapan
- 12.Sethu
- 13.Karthikeyan
- 14.Krishnamoorthy
- 15.Arunachalam
- 16.Valliyappan
- 17.Muthu
- 18.Pakampriyan

: Petitioners/A1 to A18

Vs.

- 1.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
(Crime No.70 of 2022)

: R1/Complainant

- 2.A.Sylviya Jasmine

: R2/De-facto Complainant



PRAYER:- This Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to STC No.1287 of 2022 on the file of the Judicial Magistrate, Karaikudi, Sivagangai District and quash the same.

For Petitioner : Mr.RM.Arun Swaminathan

For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

O R D E R

This criminal original petition has been filed seeking quashment of the case in STC No.1287 of 2022 on the file of the Judicial Magistrate, Karaikudi, Sivagangai District.

2.The facts in brief:-

On 09/07/2022 at about 05.10 pm, the accused found in the charge sheet were found playing cards for benefit in Young's men Club situated in Pallathur. An amount of Rs.65,950/- was seized from them. On the basis of the above said occurrence, the case was registered and final report was also filed charging the petitioners that they committed the offences punishable under sections 8 and 9 of the Tamil Nadu Gaming Act, 1930.



3. Seeking quashment of the same, this petition has been filed by the petitioners stating that the above said club is a registered society. No proper procedure was adopted at that time raid or seizure etc; The ingredients of the offences under sections 8 and 9 of the Tamil Nadu Gaming Act are not attracted; The person, who registered the case himself, has investigated the matter, which is not permissible under law.

4. Heard both sides.

5. The learned counsel appearing for the petitioners would straightaway draw the attention of this court judgment made in Cr1.OP(MD)No.17317 of 2021, dated 01/09/2022. Wherein the above said accused booked under sections 8 and 9 of Tamil Nadu Gaming Act 1930. It was contended before this court that the club was a registered society under the provisions of the Tamil Nadu Societies Registration Act. Even as per the provisions of the Tamil Nadu Gaming Act, prohibited the gambling in the common gaming house. More-over, the offence will attract only when the profit or gain is involved in the gambling activity. It was held that the above said premises will



not come under the category of common gaming house. Moreover, playing of cards is *per se* is not an offence unless it is stated that it was done either for profit or gain.

6.The learned counsel appearing for the petitioner wanted to draw the analogy of the case to the present facts and circumstances. But I am afraid that such analogy can be drawn.

7.In the FIR as well as the final report, it has been clearly stated that that the accused found playing for gain or for profit, which *prima facie* attracts the offence under sections 8 and 9 of the Tamil Nadu Gaming Act. Even though, the premises where the above said cards were played is a registered society and also prohibited from police interference, as per the order passed in WP(MD)No.26512 of 2019, dated 13/12/2019, carrying on the illegal activity was not protected by the above said order. Even in the above said order, it has been clearly stated that the petitioner must obtain proper permission from the competent authority under the provisions of Tamil Nadu Places of Public Places Resorts Act, 1888. Whether proper licence has been obtained in pursuance of the above said order, is not clear on record.



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8.The learned Additional Public Prosecutor would draw the attention of this court to the order passed by this court in Cr1.OP(MD)No.15794 of 2022, wherein this petitioner moved petition under section 482 Cr.P.C seeking quashment of the FIR in Crime No.17 of 2022, which is the subject matter herein, at the time of investigation. At that time, it was contended that no proper permission was obtained by raiding party from the competent authority before undertaking the raid. That was dismissed by this court on the ground that so far, no licence was obtained by the petitioner to run the above said club. So it is seen that this is the second time on the part of the petitioner stating different grounds.

9.In the facts and circumstances of the case, I am of the considered view that no ground is made out by the petitioner. No prejudice is caused to the petitioner by undertaking the investigation by the Officer, who registered the FIR. It is a matter for consideration during the course of trial. But as things stand today, even as per the grounds made in the petition, I find absolutely no *prima facie* case has been made out. *Prima facie* to show that the because of the investigation



10. In the result, this criminal original petition is **dismissed**. Consequently connected Miscellaneous Petitions are closed.

Index: Yes/No
Internet: Yes/No

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To,

- 1.The Judicial Magistrate,
Karaikudi.
- 2.The Inspector of Police,
Pallathur Police Station,
Sivagangai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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Cr1.OP(MD) No.4729 of 2023

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