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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reservation : 21/03/2023

Date of Pronouncement : 14/08/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.5246 of 2023
and
Crl.MP(MD)No.4618 of 2023

K.Praveen : Petitioner/A6
Vs.

1.The Inspector of Police,
Palanichettypatti Police Station,
Andipatty Taluk,
Theni District.
(Crime No.329 of 2022) : R1/Complainant

2.A.Askhok,
The Sub Inspector of Police,
Palanichettypatti Police Station,
Theni District. : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the records pertaining to the above First Information Report in Crime No.329 of 2022 on the file of the first respondent police and quash the same and pass such other orders.

For Petitioner : Mr.C.Jeganathan

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition has been filed seeking quashment of the FIR in Crime No.329 of 2022 on the file of the 1st respondent.

2.The case of the prosecution in brief:-

The de-facto complainant along with his team of police people, on information, that was received secretly on the routine patrolling duty, on 08/09/2020 at about 08.00 am, near Gopalapuram near Kittu Sevy Company. They found 2 two wheelers bearing registration No.TN-60-AC-3172, TN-6-AH-5096 and another four wheeler bearing registration No.TN-66-R-6278 drove in a suspicious manner containing some bags. On seeing the police party, those persons tried to escape. They were apprehended and on search they found in possession of 55 packets of Ganesh Tobacco, two bags of cool lip tobacco and two bags of vimal tobacco, which are banned in Tamil Nadu. On the basis of the search and seizure and on enquiry, the above said persons disclosed their names and also state that they used to purchase the same through one Ganaesan from one Nazar Hussain Faruk. On the basis of the above said occurrence, a case in Crime No.329 of 2022 was registered



for the offences under sections 272, 273, 328 IPC r/w section 6(b) and 24(21) of the Cigarette and other Tobacco Products Acts, 2003.

3.This petitioner has shown as A6, filed this petition on the ground that no material has been collected during the course of investigation to show his involvement. Apart from that, he has also mentioned in the grounds that the similar notification was quashed by the Division Bench of this court reported in 2023(1)LW 638 in the case of The Designated Officer, Food Safety & Drugs Central Department Vs. Jayavilas Tobacco Traders. Except the above said ground, no sufficient ground has been mentioned.

4.Heard both sides.

5.The learned Additional Public Prosecutor would submit that now the investigation has been completed and final report is also made ready, on 16/11/2022.

6.Reading of the final report shows that this petitioner was found in possession of 55 pockets of



tobacco products banned by the Government of Tamil Nadu Gazette No.184, dated 23/05/2018 in the two wheeler bearing registration No.TN-60-AH-5096. So it is seen that prima facie material is available against this petitioner for proceedings under the Act.

7. So far as the second ground is concerned, even though writ petition WP Nos.3076 and 3084 of 2019 allowed, it has been stayed by the Hon'ble Supreme Court. On that account, this petition cannot be entertained. Now depending upon the outcome of the orders to be passed by the Hon'ble Supreme Court, the petitioner can revive the petition.

8. In the result, this Criminal Original Petition is **dismissed. Consequently, connected Miscellaneous Petition is closed.**

14/08/2023

Index:Yes/No
Internet:Yes/No
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To,

- 1.The Inspector of Police,
Palanichettypatti Police Station,,
Andipatty Taluk,
Theni District.
- 2.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.5246 of 2023

14.08.2023