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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Date of Reservation : 29/03/2023

Date of Pronouncement : 14/08/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGO VAN

Crl.OP(MD)No.5859 of 2023

and

Crl.MP(MD)No.5126 of 2023

Samathanaprabhu : Petitioner/A1

Vs.

1.The State rep. by
The Inspector of Police,
Koompatti P.S
Virudhunagar District.
(Crime No.4 of 2023) : R1/Complainant

2.K.Arumugasamy,
Sub Inspector of Police,
Koomapatti Police Station,
Virudhunagar District. : R2/De-facto Complainant

Prayer: Criminal Original Petition has been filed under section 482 of the Criminal Procedure Code, to call for the entire records pertaining to the impugned First Information Report in Crime No.4 of 2023, dated 07/01/2023 on the file of the 1st respondent Police Station and quash the same as against the petitioner concerned and pass such further or other orders.



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For Petitioner : Mr.A.John Vincent
For Respondents : Mr.R.Suresh Kumar
Government Advocate
(Criminal side)

O R D E R

This criminal original petition has been filed seeking quashment of the FIR in Crime No.4 of 2023, dated 07/01/2023 on the file of the first respondent.

2.The case of the prosecution in brief:-

On 07/01/2023 at about 05.00 hours, the de-facto complainant, who is working as Sub Inspector of Police along with his team of police men were on routine patrolling duty. At that time, near Muniappan Kovil Street, Koomapatti area, this petitioner was found in possession of banned tobacco in his cattle shop. Search was made as per the procedure. On enquiry, he revealed that the above said tobacco products is supplied by one Navaneethakrishnan and Pushparaj. On the basis of the above said occurrence, a case in Crime No.4 of 2023 was registered for the offences under section 328 IPC and section 6(b) and 24(1) of COTPA, 2020.



3. Seeking quashment of the same, this petition has been filed by A1.

4. This petitioner has shown as A1. He has 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 issued was quashed by the Division Bench of this court. Except the above said ground, no sufficient ground has been mentioned.

5. Heard both sides.

6. 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.

7. 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 in GO.MS. No.184, 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 this Act.

7. So far as the second ground is concerned, even though writ petition in WP Nos. 3076 and 3087 of 2019 re allowed by the Division of this Court, 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,
Koomapatti Police Station,
Virudhunagar 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.5859 of 2023

14.08.2023