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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 07/06/2023

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

Cr1.OP(MD)No.5996 of 2023

and

Cr1.MP(MD)Nos.5264 and 5265 of 2023

R.Muthukrishnan : Petitioner/A3

Vs.

1.State rep. by
The Inspector of Police,
Allinagaram Police Station,
Theni District.
(Crime No.561 of 2019) : R1/Complainant

2.P.Sekar,
Inspector of Police,
Allinagaram 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 relating to the impugned charge sheet filed in STC No.2660 of 2022 on the file of the Judicial Magistrate, Theni and quash the same as illegal as against the petitioner/A3 and pass such further or other orders.

For Petitioner : Mr.S.Chandrasekar

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

**ORDER**

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This criminal original petition has been filed seeking quashment of the case in STC No.2660 of 2022 on the file of the Judicial Magistrate, Theni.

2. The case of the prosecution in brief:-

On 08/11/2019 at about 02.00 pm, the police team were on their routine patrolling duty, at that time, they found A2 riding a four wheeler namely a loaded auto. On suspicion, they intercepted and searched. At that time, A1 was also available in the loaded auto. It was found loaded with huge quantities of liquor, which are detailed in the FIR namely 36 pockets of liquor bottles worth about Rs.2,36,390/-. On enquiry, they disclosed that they purchased the above said liquor from A3, who was working as Supervisor and A4 the sales-man in TASMAC shop bearing No.8533 situated at Allinagaram. Further, they disclosed that they purchased the same in bulk from A3 and A4 for selling the same in the open market for more price. On the basis of the above said occurrence, a case in Crime No. 541 of 2019 was registered for the offences under section 4(1)(aaa) and section 24 of the Tamil Nadu



Prohibition Act, 1937. After completing the process of investigation, final report was filed and it was taken cognizance by the Judicial Magistrate, Theni, in STC No. 2660 of 2022.

3. Seeking quashment of the same, this petition has been filed by A3 stating that he is noway involved in the above said occurrence; only upon the confession statement of the co-accused, he has been roped in.

4. Heard both sides.

5. None of the grounds mentioned in the petition are worth considering.

6. It is the specific allegation by the prosecution to the effect that A1 and A2 alleged to have purchased the TASMAL liquor bottles from this petitioner and the co-accused. Enough materials have been collected during the course of investigation to implicate this petitioner also. Whether, he is involved in the above said selling of the liquor illegally to A1 and A2 can be found out only during the course of trial.



7.It is further submitted that no chemical report has been obtained during the course of investigation to find out the kind or composition of the alleged liquor bottles. This defence, which is available to the petitioner, can be taken into account during the course of trial. Further, reading of the final report, FIR and other materials shows that the above said liquor bottles contain label.

8.The learned counsel appearing for the petitioner would rely upon the decisions of this court made in (1)CrI.OP(MD)No.5697 of 2018, dated 18/10/2019 (Kalyani and 3 others Vs. The State and another; (2)CrI.OP(MD)No. 16087 of 2021, dated 28/09/2021 (Madhu and another Vs. State represented by Inspector of Police, Natrampalli Police Station, Thirupathur District); and CrI.OP(MD)No. 7845 of 2022, dated 13/07/2022 (P.Sugumar Vs. State, Inspector of Police, Prohibition Enforcement Wing, Kottakuppam, Villupuram District) to bring home his point to the effect that mere confession of the co-accused is not sufficient enough to decide the case on its own merit and circumstances.



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9.No doubt that the confession of the co-accused cannot be taken into account for convicting a person. But the materials, which have been collected during the course of investigation can be tested only during the court of trial. Since, it is an allegation that the above said liquor bottles were purchased illegally from the TASMAC shop, it can be easily verified by perusing the stock register and that can be taken during the course of trial.

10.When that is being so, now it is too premature stage to contend that the prosecution has not produced any report to show that it is an illegal liquor. So, I find no merit in this petition and the trial process must be taken to its logical conclusion.

11.Further, since serious allegation has been made against this petitioner to the effect that he along with A4 sold the liquor to A1 and A2, I find absolutely no reason to quash the proceedings.



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

07/06/2023

Index:Yes/No
Internet:Yes/No

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To,

1. The Judicial Magistrate,
Theni.
2. The Inspector of Police,
Allinagaram Police Station,
Theni 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.5996 of 2023

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