



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 05.12.2023

CORAM:

THE HONOURABLE MR. JUSTICE K.K.RAMAKRISHNAN

Crl.O.P.(MD) No.8828 of 2021

Narendra Singh Yadhav

... Petitioner/Petitioner

Vs.

State Through,
The Inspector of Police,
Pudukottai Police Station,
Pudukottai.
(Crime No.85/2019)

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records and set aside the order passed by the learned Principal Sessions Judge, Tuticorin in Crl.R.C.No.19 of 2019 dated 17.09.2020 by confirming the order in Cr.M.P.No.8623 of 2019 dated 28.08.2019 on the file of the learned Judicial Magistrate Court No.III, Tuticorin by allowing this Petition.

For Petitioner : Mr.K.Sivabalan

For Respondent : Mr.M.Muthumanikkam,
Government Advocate(Crl.Side)



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ORDER

This petition has been filed to set aside the order passed by the learned Principal Sessions Judge, Tuticorin in CrI.R.C.No.19 of 2019 dated 17.09.2020 by confirming the order in Cr.M.P.No.8623 of 2019 dated 28.08.2019 on the file of the learned Judicial Magistrate Court No.III, Tuticorin.

2.The case of the prosecution is that the petitioner is the Ex-Service man and he is the owner of the Revolver and also the Cartridges seized by the Police Officials. On 26.03.2019, the petitioner came to Tuticorin in his Innova Car bearing Registration No.TN 56 J 5590 from Uttarpradesh and his car was intercepted by the respondent Police at the Toll Gate at Pudukottai and searched his vehicle and seized the articles of Revolver N2345 with five Cartridges and with forty four Cartridges in Two Card Board Boxes and remanded before the trial Court and the same was numbered in P.R.No.99 of 2019 as if the petitioner has not obtained necessary permission from the competent Authority to possess the said articles in his car and entrusted those articles before the Judicial Magistrate Court No.III, Tuticorin. On the same day, the petitioner was arrested for having the possession of the Pistol with Cartridges. Since



the election process was going on, he has to deposit the weapon and the Cartridges in his native town Sub Collector. But, the petitioner has taken the Revolver with him. Hence, the respondent police registered a case in Crime No.85 of 2019, for the offence under Sections 25(1)(B)(b), 30 and 35 of the Arms Act.

3. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent Police.

4. The learned counsel appearing for the petitioner submitted that the petitioner is an Ex-Service man. After his service, he has applied for licence and obtained the same. The petitioner is a Security Guard and he is also having the licence to possess gun. At the time of Parliament Election, he has to deposit the weapon and the Cartridges in his native town Sub Collector. Since he was in Tamil Nadu, he was unable to deposit the same at his State Police Officers. The only allegation against him that he has not deposited the weapon and Cartridges in the office of the jurisdictional Sub Collector during the election and there is no other allegations against the petitioner by the use of Revolver with Cartridges.



Therefore, he filed an application under Section 451 Cr.P.C. seeking interim custody of gun. However, the trial Court, without considering the fact that the petitioner is the licence holder, dismissed the petition. Against which, he filed this revision. The same was also dismissed. Hence, the petitioner has filed this criminal revision case and seeks return of property.

5. The learned Government Advocate (Crl. Side) appearing for the respondent Police submitted that the petitioner is a Ex-SERVICE Man and he has not produced the custody of the revolver during the banned period of parliament election in the office of the Sub-Collector, Thoothukudi and illegally carrying the said weapon on 26.03.2019 and acted as security for one Hari Nadar. Therefore, the respondent police registered the case in Crime No.85 of 2019 for the offence under Sections 25(1)(B) (b), 30 and 35 of the Arms Act and completed the investigation and filed the final report before the learned Judicial Magistrate No.III, Thoothukudi. Since, the petitioner is acted as security guard without any legality along with the gun, during the election period, without surrendering the same, in the office of the Sub-Collector, Thoothukudi, the learned trial Judge, correctly dismissed the petition. Hence, he seeks



6.This Court has carefully considered the submissions made on either side and the materials available on record. This Court has also carefully gone through the order passed by the Court below.

7.From the records, it is clear that the petitioner is an ex-service man and he is also having licence to possess gun. It is also admitted fact that he has not surrender the custody of the gun with cartridges in the office of the Sub-Collector, Thoothukudi, during 2019 parliamentary election. Without surrendering the custody of the gun, he said to have carried the same with cartridges and travelled along with Hari Nadar as a security guard. It is the duty of the petitioner to surrender the gun with cartridges, in the office of the Sub-Collector, Thoothukudi, during the election period. Considering the said violation of the order and the utter disregard to the conditions mentioned in the gun licence, carrying the weapon with cartridges and acted as a security guard to one Hari nadar, who has a number of the criminal antecedents is a circumstances to decline to grant relief to the petitioner. Therefore, the learned trial Judge rightly dismissed the petition. This Court finds no grounds to interfere in



the impugned order.

8.Accordingly, this Criminal Original Petition is dismissed.

05.12.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Principal Sessions Judge, Tuticorin.
2. The Judicial Magistrate No.III, Tuticorin.
3. The Inspector of Police,
Pudukottai Police Station,
Pudukottai.
4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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