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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 30/06/2023

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Cr1.OP (MD) No.10298 of 2023

and

Cr1.MP (MD) No.8193 of 2023

- 1.Sankar
 - 2.Jeyakumar
 - 3.Deepan Chakkaravarthi
 - 4.Vairamuthu : Petitioners/A1 to A4
- Vs.
- 1.The State rep. by
The Sub Inspector of Police,
Prohibition and Enforcement Wing (PEW)
Madurai City.
(Crime No.303 of 2023) : R1/Complainant
 - 2.Mr.Rajangam,
The Sub Inspector of Police,
Prohibition and Enforcement Wing (PEW),
Madurai City. : 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 FIR in Crime No.303 of 2023 on the file of the 1st respondent police and quash the same as illegal in so far as the petitioners are concerned.

For Petitioners : Mr.R.Gandhi
Senior counsel
for M/s.Gandhi Associates

For Respondents : Mr.B.Nambiselvan
Additional Public Prosecutor

**O R D E R**

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This criminal original petition is filed seeking quashment of the FIR in Crime No.303 of 2023 on the file of the 1st respondent police.

2.The case of the prosecution in brief:-

The police team, comprising the de-facto complainant attached to the Prohibition and Enforcement Wing, Madurai were under routine surveillance and search in Anna Nagar area, at that time, they inspected a Recreation Club called 'Al Welfare Club'. They found two persons selling liquor bottles illegally to the outsiders. They were surrounded and apprehended. On enquiry, they revealed that as per the instructions given by the Manager of the Welfare Club, they are selling the liquor bottles illegally to the outsiders. On the basis of the above said disclosure statement and occurrence, a case in crime No.303 of 2023 was registered for the offences under sections 4(1)(aa), 4(1)(i) of the Tamil Nadu Prohibition Act, 1937.



3. Seeking quashment of the same, this petition has been filed by the petitioners on the ground that proper license was issued to the Recreation Club; As per the permit, they are supplying the same only to the members of the above said Recreation Club; They were also purchased the liquor bottles from TASMAL shop, after obtaining proper permission from the Excise Department also. On that account, this petition has been filed.

4. Heard both sides.

5. It is not in dispute that the petitioners are the office-bearers and officials attached to the Recreation Club called 'A1 Welfare Club'. F1 Licence was also granted to the above said Recreation Club, as per the order of the Commissioner of Prohibition and Excise, Chennai, dated 25/09/2018 in RCO No.P&E 2(1)48/2018, dated 25/09/2018. As per the above said proceedings, F1 License was renewed upto 2018. Later, it was extended till 23/10/2023. The date of occurrence stated to be on 31/05/2023, which is well within the period of Licence.



6. When we go through the Licence, it shows the purchase of 3,000 units. The invoice, dated 31/05/2023 was produced for the purchase of 18 boxes of liquors. So this invoice shows that the above said liquor was purchased for the benefit of the members of club.

7. It is seen that proper vouchers and accounts are maintained by the Club. If there is any violation in the said business or if the quantity exceeded, it is for the Excise Department to initiate action against the Club for terminating the Licence. But the respondent police has no authority to initiate any action for the above said possession. On that sole ground, this criminal original petition is liable to be allowed.

8. In the result, this criminal original petition is **allowed**. The FIR in Crime No.303 of 2023 on the file of the 1st respondent is hereby quashed against the petitioners. Consequently, connected Miscellaneous Petition is closed.

30/06/2023

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

- 1.The Inspector of Police,
Prohibition and Enforcement Wing,
Madurai City.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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