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CrI.O.P.(MD)No.11263 of 2023



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.06.2023**

CORAM

THE HON'BLE MR.JUSTICE G.ILANGO VAN

CrI.O.P.(MD)No.11263 of 2023

and

CrI.M.P.(MD)No.8909 of 2023

S.Arumugam

... Petitioner / Sole Accused

Vs.

The State represented by

The Inspector of Police,

Tirunelveli Police Station,

Tirunelveli Town.

... Respondent / Complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to the case in C.C.No.711 of 2023, before the file of the Judicial Magistrate No.IV, Tirunelveli and to quash the same.

For Petitioner : Mr.N.Marimuthu

For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor



ORDER

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This Criminal Original Petition has been filed, invoking Section 482 Cr.P.C., seeking orders to quash the proceedings in C.C. No.711 of 2023, before the file of the Judicial Magistrate No.IV, Tirunelveli.

2. The case of the prosecution is that on 19.01.2023 at about 3.00 pm, the accused person was found in possession of the fire crackers worth about 1,20,000/-, without proper permission. On the above said complaint, a case in Crime No.12 of 2023, under Section 9(B)(1)(b) of the Indian Explosives Act, 1884, was registered and after investigation, charge sheet was filed and the same was taken on file as C.C.No.711 of 2023, before the file of the Judicial Magistrate No.IV, Tirunelveli.

3. Seeking quashment of the same, this petition has been filed by the petitioner, on the sole ground that on the date of alleged occurrence, the renewal application for the licence was pending with the competent authority. So, according to him, without noticing the above, the said investigation has been undertaken. He would rely upon a similar order that was passed by this Court in Crl.O.P.(MD)No.15277 of 2019,



dated 28.04.2022. So, in the above said case, it was alleged that this petitioner, on 12.04.2019, at about 2.00 pm., found in possession of fire crackers worth about 2,00,000/-, without any proper licence. So far as this fact is concerned, it is stated that on 07.01.2023 he was found in possession of fire crackers, without any proper licence. The above said case was decided on the ground that as per provision of the Indian Explosives Rules, 2008, renewal application must be submitted on or before the date of expiry of licence. In the above said application was filed within a month stipulated. Until the order is made by the licensing authority, the renewal would be deemed to be in force. The petitioner wants to draw analogy by this judgment to the present facts also.

4. Now, will see whether the renewal application was filed by this petitioner before the expiry date. The document which is enclosed along with the petition shows that periodically licence was extended. Last endorsement is dated 07.02.2021, shows that the licence period is extended for one year from 29.03.2021 to 31.03.2022. The order of the Commissioner of Police, Tirunelveli, is also available, dated 29.06.2021, for 2022 to 2023 year, he has remitted require fees, on 07.02.2022, which is much before the date of expiry of licence as mentioned above. He also submitted the application on 11.02.2022,



seeking renewal of licence from 01.04.2022 to 31.03.2023. But, having received the fee, it is seen that it was kept pending, without any proper order. Why the proper order was not passed is not clear on record. Having received the application and the required fee, the Commissioner of Police ought to have passed the order immediately. So, in view of the above said provision and continuation of presence of amount is abuse of process of the Court. On that ground, the petition is allowed and the proceedings in C.C. No.711 of 2023, before the file of the Judicial Magistrate No.IV, Tirunelveli, is hereby set aside. Consequently, connected Miscellaneous Petition is closed.

23.06.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
Ls

To

- 1.The Judicial Magistrate No.IV,
Tirunelveli.
- 2.The Inspector of Police,
Tirunelveli Police Station,
Tirunelveli Town.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN,J.

Ls

Order made in
Crl.O.P.(MD)No.11263 of 2023

Dated: 23.06.2023