



Crl.O.P.(MD).No.13249 of 2020

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.11.2023

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THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.O.P(MD).No.13249 of 2020

and

Crl.M.P(MD).Nos.6087 and 6088 of 2020

Kanagu @ Kanagasabapathy

... Petitioner

Vs.

1.The State Rep by
The Inspector of Police,
Prohibition Enforcement Wing,
Uthamapalayam, Theni District.
(Crime No.534 of 2018)

2.Raja
The Assistant Commissioner of Excise,
Theni.

...Respondents

PRAYER: Criminal Original Petition has been filed under Section 482 of Cr.P.C., to call for the records relating to C.C.No.274 of 2020, on the file of the Judicial Magistrate, Uthamapalayam and quash the same in respect of the petitioner.

For Petitioner : Mr.S.Ravi

For Respondents : Mr.P.Kottaichamy
Government Advocate(Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to quash the proceedings in C.C.No.274 of 2020, on the file of the Judicial Magistrate, Uthamapalayam.

2.The case of the prosecution is that the first accused in Crime No.534 of 2018, is the sibling of the second accused. The second accused is the owner of the Thai Recreation Club, which is currently being shifted from Kamachipuram to Chinnamanur. The third accused is the Manager and the fourth and fifth accused are the salesmen, who were working in the above said recreation club. All the accused persons conspired with one Kanagasabapathi and with an intention to get more profit, they had been buying and selling spurious liquor bottles with a fake Government Label since three months prior to 02.08.2018 till that date. On 02.08.2018, a white Tata Sumo bearing No.TN 38 B 7616 vehicle belonging to one Ramesh was brought to Kamatchipuram, Thai Recreation Club, to sell the fake liquor bottles and about 58.324 Ml., of liquor was seized. It is alleged that the sixth accused prepared counterfeit liquor bottles with fake hologram like Government sealed liquor bottles and knowingly sold them. The second accused sold the spurious liquor in violation of liquor license regulations. Therefore, the respondent police arrested A1 to A4 and on the basis of the



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confession, the petitioner was implicated as A6. According to the confession of A6, six liquor bottles were supplied by A6. With the said allegations, the respondent police registered a case against the accused persons for the alleged offences under Sections 7(i), 4(1) (aa), 4(1) (a) TNP Act (Transport), 24 TNP Act r/w 486 of IPC before the learned Judicial Magistrate, Uthamapalayam. The same was taken on file in C.C.No.274 of 2020.

3.The learned counsel for the petitioner has submitted that except the confession of the co-accused, no other material is available against him to frame the charges. Therefore, he seeks to allow this petitioner by setting aside the impugned order.

4.The learned Government Advocate (Crl.Side), on instructions and also upon perusal of the documents, specifically stated that the petitioner's contention is correct. He would further submit that even though confession relating to the serious allegation only is available, this is not the case for quashing of the final report. Hence, he seeks for dismissal of the quash petition.



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5. This Court considered the rival submissions made by the learned counsel appearing on either side and perused the materials available on record.

6. The case of the prosecution is that on 02.08.2018, the respondent police received the secret information regarding the sales of spurious liquor bottles. Hence, they made a search in Tai Recreation Club run by A2. The same was managed by A1. At the time of inspection, A1 and A4 were arrested and thereafter on the basis of the confession, remaining accused were added as accused. This Court while perusing the records, found that only available material against the petitioner is the confession of the co-accused. Even in the said confession of A1, it is stated that he supplied 6 liquor bottles to A2's Tai Recreation Club. Except that no material is found against the petitioner. In the said circumstances, as held by the Hon'ble Supreme Court in the judgment reported in 2019 16 SCC 547 and unreported judgment of this Court Crl.R.C.No. 37 of 2021 and Crl.O.P.(MD).No.4474 of 2012, the Court has no jurisdiction to frame the charges against the petitioner only on the basis of the confession of the co-accused. In this case, no sufficient material is available against the petitioner except the confession of the co-accused that he had supplied 6 liquor bottles and hence, this Court is inclined to quash the proceedings as against the petitioner.



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7. Accordingly, this Criminal Original Petition stands allowed and the proceedings in C.C.No.274 of 2020, on the file of the learned Judicial Magistrate, Uthamapalayam is hereby quashed against the petitioner alone. Consequently, connected Miscellaneous Petitions are closed.

24.11.2023

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn

To

1. The Inspector of Police,
Kurangani, Bodinayakannur Taluk,
Theni District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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and

Crl.M.P(MD).Nos.6907 and 6908 of 2020

24.11.2023