



Crl.O.P.(MD)No.12361 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 04/12/2023

CORAM

The Hon'ble Mr.Justice **G.ILANGOVAN**

Crl.MP(MD)No.12361 of 2023

and

Crl.MP(MD)Nos9698 and 9700 of 2023

Jegadeesan : Petitioner/A4

Vs.

State represented by

1.The Inspector of Police,
Vembakkottai Police Station,
(In Crime No.740 of 2020)
Virudhunagar District. : R1/Complainant

2.Sathish Kumar.
The Sub Inspector of Police,
Vembakkottai Police Station,
Virudhunagar 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 pertaining to CC No.125 of 2023 on the file of the Judicial Magistrate No.II, Sattur, Virudhunagar District and quash for the petitioner/A4's concerned and the same as illegal and pass such further or other orders.

For Petitioner : Mr.Na.Palaniyandi

For Respondents : Mr.M.Sakthi Kumar
Government Advocate
(Criminal side)



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O R D E R

WEB COPY This criminal original petition has been filed seeking quashment of the CC No.125 of 2023 on the file of the Judicial Magistrate No.II, Sattur, Virudhunagar District.

2.The case of the prosecution in brief:=

On 24/10/2020 when the de-facto complainant, who is the Sub-Inspector of Police along with other police personnel on surveillance near Excel Fire Office, the accused persons made crackers illegally. On their disclosure statement, explosive substances were recovered from them. Upon which, a case in Crime No.740 of 2020 was registered for the offences under sections 9(b) (i) (a) of the Indian Explosives Act, 1884 and section 109 IPC. After completing the investigation, final report was filed and it was taken cognizance in CC 125 of 2023 by the Judicial Magistrate No.II, Sattur.

3.Heard both sides.

4.The ground on which this petition came to be filed by this petitioner is that only based upon the confession statement of the co-accused, he has been arrayed as an



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accused; and during the course of the investigation, no materials were collected to implicate him with the crime.

5.As stated in the preamble portion, on surprise inspection, explosive substances were recovered from the place of occurrence. To show the recovery of the explosive substances, there was no denial by the accused. More-over, it is also seen that the crackers were manufactured in violation of the licence condition. Licence for running the fire crackers shop appears to have been obtained by one Kannan. From Kannan, A1 appears to have purchased the property and put up the shed and manufacturing the crackers. A1 did not obtain any licence. So *prima facie*, it is seen that he manufactured the crackers without proper licence or permission, as the case may be, from the competent authority. In the course of investigation, he has also stated that he purchased the raw materials from this petitioner. This is the disclosure statement of A1 during the course of investigation. So purchasing raw materials from this petitioner by A1 for manufacturing the crackers without proper licence is the fact discovered during the course of investigation. So finding the involvement of this petitioner, alternation report was filed by including section 109 IPC against the petitioner.



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6. Whether there was abetment on the side of the petitioner is a matter for consideration by the trial court. Abetment cannot be a matter for consideration by this court while exercising the jurisdiction under section 482 Cr.P.C.

7. '**Abatement**' is defined in section 107 IPC as under:-

"107. Abetment of a thing.-A person abets the doing of a thing, who-

First-Instigates any person to do that thing; or

Secondly.-Engages with one or more other person or persons in any conspiracy for doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or

Thirdly-Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.-A person who, by wilful misrepresentation, or by wilful concealment of a material fact which he is bound to disclose, voluntarily



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causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing."

8.As stated above, the fact disclosed by the co-accused during the course of investigation got to be properly proved by the prosecution before the trial court. So it is purely a factual issue, which cannot be taken into account by this court. So, I find no reason to entertain this petition.

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

04/12/2023

Index:Yes/No
Internet:Yes/No

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To,

- 1.The Judicial Magistrate No.II,
Sattur.
- 2.The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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G.ILANGOVAN, J

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