



Crl.O.P.(MD)No.15226 of 2021

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.03.2023

Delivered on : **01.06.2023**

CORAM:

THE HONOURABLE MRS.JUSTICE **R.THARANI**

Crl.O.P.(MD) No.15226 of 2021
and
Crl.M.P.(MD)Nos.8167 and 8168 of 2021

Raja ... Petitioner /Accused
Vs.

1.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.

In Crime No.178 of 2018 ... Respondent / Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records and to quash the charge sheet against the petitioner in P.R.C.No.2 of 2021, on the file of the Judicial Magistrate No.I, Sivagangai.

For Petitioner : Mr.P.P.Alwin Balan for Mr.H.Arumugam

For Respondent : Mr.M.Sakthi Kumar
Government Advocate (Crl.Side)



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ORDER

This petition is filed to quash the charge sheet in P.R.C.No.2 of 2021, on the file of the Judicial Magistrate No.I, Sivagangai.

2. The allegation against the petitioner is that the respondent and the Sub Inspector of Police found that the accused was disbursing the liquor in the plastic tumbler to four persons and on seeing the police Team, the four persons escaped from the scene and the accused was arrested and a case in Crime No.178 of 2018, under Sections 4(1)(a) & 4(1-A) of Tamil Nadu Prohibition Act.

3. On the side of the petitioner, it is stated that the complainant and the investigation officer are one and the same person, which is against Article 21 of the Constitution of India. The respondent demanded paints from the hardware shop owned by the father of the petitioner, to paint the police station and the petitioner's father supplied some quantity, whereas, the respondent demanded a larger quantity. When the same was refused by the petitioner's father, the respondent take revenge and foisted a false case against the petitioner. The petitioner was



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at his shop at the time of alleged occurrence, the C.C.T.V footage of the shop is available. The petitioner and his father made a complaint before the State Human Rights Commission and the case was registered in SHRC.No.5808/2018. After receipt of the summons in the Human Rights complaint, the respondent sent the liquor for chemical analysis after one year four months from the date of seizure. If the contraband is analyzed after a long period, the result would be negative. There was no independent witness. Only the police subordinates of the respondent were mentioned as the witnesses. The contraband was not handed over at the time of remand and the charge sheet and the case are to be quashed.

4. On the side of the petitioner, it is stated that the bottles were seized on 30.04.2018, but, they were sent for chemical analysis only on 28.08.2019, that is, after 1 ½ years. The content would have undergone some chemical reaction and the chemical report cannot be taken into consideration. A judgment of the Hon'ble Supreme Court reported in **2018-17-SCC-627 (Mohan Lal V.State of Punjab)**, is cited, wherein, it is stated as follows:-



“The obligation of proof beyond reasonable doubt will take within its ambit a fair investigation, in the absence of which there can be no fair trial. If the investigation itself is unfair, to require the accused to demonstrate prejudice will be fraught with danger vesting arbitrary powers in the police which may well lead to false implication also. Investigation in such a case would then become an empty formality and a farce. Such an interpretation therefore naturally has to be avoided.”

5. On the side of the petitioner, another judgment of this Court reported in **2011-3-MLJ(Criminal)-332 (Selvi V. State Rep. by Inspector of Police)**, is cited, wherein, it is stated as follows:-

“In a case where the officer, who seizes illicit arrack, decides to destroy the same after drawing samples, in order to ensure that samples were really taken from the illicit arrack seized and that the rest of the illicit arrack was destroyed, the presence of yet another responsible officer namely, a prohibition officer or any police officer not below the rank of Inspector is insisted upon. This procedure, in my considered opinion, is mandatory as the object behind the same is to ensure that there is no manipulation at the hands of the officer who seizes the illicit arrack.”



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8. The offence alleged against the petitioner is serious in nature. Hence, this Court is not inclined to allow the petition. This Petition is dismissed. Consequently, connected Miscellaneous Petitions are closed.

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

01.06.2023

To

1.The Judicial Magistrate No.I,
Sivagangai.

2.The Inspector of Police,
Kalayarkovil Police Station,
Sivagangai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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R.THARANI. J.

Ls

Pre-delivery order made in
Crl.O.P.(MD)No.15226 of 2021

01.06.2023