



Crl.O.P.(MD) No.14545 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 30.08.2023

Delivered on : 07.09.2023

CORAM:

THE HONOURABLE DR.JUSTICE **D.NAGARJUN**

Crl.O.P.(MD) No.14545 of 2023

and

Crl.M.P(MD).No.11465 of 2023

1.Ramkumar

2.Thirunavakarasu

... Petitioners

Vs.

The Inspector of Police,
Karimedu Police Station,
Madurai City.

... Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records relating to FIR in Crime No.483 of 2022 dated 14.07.2022, on the file of the respondent police and quash the same as against the petitioners.

For Petitioners : Mr.D.Ramesh Kumar
For Respondent : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor



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ORDER

This petition is filed seeking for quashment of the FIR in Crime No.483 of 2023, dated 14.07.2023 pending on the file of the respondent police registered against the petitioners/Accused Nos.1 and 2 for the offences punishable under Sections 24 and 76 of Tamil Nadu City Police Act, 1888.

2. According to the learned counsel for the respondent police, the first petitioner is running Recreation Club in the name and style of “Milan Club” at Pallavan Nagar, Theni Main Road, Madurai. On 14.07.2022, the respondent police made a surprise into the above said club, in the presence of the second petitioner, who is Manager in the said club. At that time, the respondent police found 3 non members were consumed the liquor in the club and found that further there is no parking facility provided by the said club to the members. Accordingly, a case has been registered by the respondent police in Crime No.483 of 2022 dated 14.07.2023.



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3. This petition is filed seeking quashment of FIR under Section 482 Cr.P.C., on the two grounds. Sections 24 and 76 of Tamil Nadu City Police Act, 1888 are not a penal provisions and thereby the FIR should not have been issued. Secondly the FIR was registered in the year 14.07.2022 and even after lapse of a year, the investigation has not been completed and the final report has not been filed before the concerned Court.

4. The learned Additional Public Prosecutor appearing for the state as well as the supporting their actions of the respondent police submitted that eventhough, the FIR has been issued on 14.07.2023 and under Sections 24 and 76 of Tami Nadu City Police Act, the police can file the charge sheet by mentioning the appropriate penal provisions of law, thereby, submission of the petitioner cannot be considered.

5. Heard both sides counsels and perused the materials available on record.



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“Section 24

Police Officers and Agent of the Society for the Prevention of Cruelty to Animals May arrest without warrant in view of offence:-

(1) Notwithstanding anything contained in this Act or any other Law for the time being in force:-

(a) any offence made punishable by Sections 45, 46, 49-A, 72 or 75 shall be cognizable.

(b) any police Officer may arrest without a warrant any person committing in his view any offence made punishable by this Act.

(2) Any agent of the Society of the Prevention of Cruelty to Animals who is specially empowered by the State Government in that behalf may arrest without a warrant any persons committing in his view any offence punishable under Section 53.

(3) The agent shall have power to release any person so arrested on his executing a bond with or without sureties, for his appearance before a Magistrate if and when required.

(4) Central Act V of 1898-- The provisions of the code of Criminal Procedure 1898, shall apply to any arrest made or bond taken under this



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section been made, or the bond had as if the arrest has been taken, under the said Code.

Section 76:- *Power to cancel or suspend any licence and penalty for breach of conditions of licence*

(1) The commissioner may, at any time and for reasons to be recorded in writing cancel or suspend any licence granted under this Act:

Provided that no such cancellation or suspension be ordered unless the holder of the licence has been given a reasonable opportunity of showing cause against the order proposed to be made in regard to him."

7. On going through the above provisions of Tamil Nadu City Police Act, it is clear that Section 24 deals with the powers of the Police Officers and agents of the society for the prevention of cruelty to animals may arrest a persons without warrant. This provision is not a penal provisions, wherein punishment is prescribed for certain violation.

8. Similarly Section 76 of the Tamil Nadu City Police Act, 1888, provides that the Commissioner of police is at liberty to cancel or suspend the licence



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granted under the Act after recording the reasons in writing. If at all the petitioners' club was granted permission or the license under the Tamil Nadu City Police Act and in case if the one of the conditions of the grant of license is not to permit the non members in the club then certainly police can initiate action for cancellation of license. This provision is also merely procedural in nature and not not penal provisions. When the Sections 24 and 76 of the Act are not penal, FIR cannot be registered under Sections 24 and 76 of the Tamil Nadu City Police Act. Therefore, on this ground itself, the FIR registered against the petitioners can be quashed.

9. The other ground raised by the learned counsel for the petitioners is that the FIR was registered in the year 14.07.2023 and even after a lapse of a year, the investigation has not been completed and the final report has not been filed before the concerned Court. Section 468 of Cr.P.C reads as under:

"468. Bar to taking cognizance after lapse of the period of limitation.

(1) Except as otherwise provided elsewhere in this Code, no Court, shall take cognizance of an offence of the category



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specified in sub-section

(2), after the expiry of the period of limitation.

(2) The period of limitation shall be—

(a) six months, if the offence is punishable with fine only;

(b) one year, if the offence is punishable with imprisonment for a term not exceeding one year;

(c) three years, if the offence is punishable with imprisonment for a term exceeding one year but not exceeding three years.

(3) For the purposes of this section, the period of limitation, in relation to offences which may be tried together, shall be determined with reference to the offence which is punishable with the more severe punishment or, as the case may be, the most severe punishment."

FIR is though registered under Sections 24 and 76 of the Tamil Nadu City Police Act, on completion of investigation, the respondent police may alter the sections of law and may to file charge sheet by mentioning all appropriate provisions as per the Tamil Nadu City Police Act. However, on going through the entire Tamil Nadu City Police Act, the Maximum punishment, that can be imposed, under any offence is one year. The state has to file the charge sheet within a period of one year from the date of registration of FIR, under Section 76



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of the Tamil Nadu City Police Act, FIR was registered on 14.07.2022 and thereby, one year expires on 13.07.2023, but the respondent police have not filed the charge sheet.

10. In view of the observation made above, this Criminal Original Petition is **allowed** and the FIR in Crime No.483 of 2022 dated 14.07.2023 is quashed against the petitioners' alone. Consequently, the connected miscellaneous petition is closed.

Speaking : Yes / No
NCC : Yes / No
Internet : Yes / No
Index : Yes / No
tta

07.09.2023

To

1.The Inspector of Police,
Karimedu Police Station,
Madurai City.

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

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DR.D.NAGARJUN. J.

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