



Crl.O.P.(MD) No.15785 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2023

CORAM:

THE HONOURABLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.15785 of 2023

and

Crl.M.P.(MD) No.12560 of 2023

Muhibulla

... Petitioner

Vs.

The Inspector of Police,
Woraiyur Police Station,
Trichy District.

..Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the FIR in Crime No.85 of 2021 dated 20.01.2021 under Section 6(b) r/w 24(1) of TPA Cigarette and other Tobacco Product Act on the file of the respondent and quash the same.

For Petitioner :Mr.M.Arumugam

For Respondent :Mr.S.S.Madhavan
Government Advocate (Crl.side)



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ORDER

This petition is filed invoking the inherent power of this Court to quash the FIR in Crime No.85 of 2021 registered against the petitioner for the offences punishable under Sections 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003.

2.The facts, as per the records, are that on 20.01.2021, the respondent police while patrolling were found that the petitioner molested the children at Puttur 4 Road G.K. At 02.15 pm., and on the information that intoxicating tobacco products were being sold, the police were making surprise visit in the coffee bar and found that the packets of tobacco products were hanging in front of the shop. On questioning them, the police have effected arrest the petitioner alleging that he was selling the intoxicating tobacco products for profit.

3.It is submitted by the learned counsel for the petitioner that the complaint filed against the petitioner is false and there is no material to prove that the petitioner has committed the offence and the police have not followed the procedure. The learned counsel for the petitioner though submitted many factual



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aspects in respect of the alleged commission of offence, the main contention of the petitioner is that the police have not filed the charge sheet after a lapse of 2½ years.

4. Section 468 Cr.P.C., runs 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 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."



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5. On perusal of the above, it is clear that in case if the punishment refers to only with fine, the charge sheet should have been filed within a period of 6 months. According to the respondent police, the petitioner has committed the offence under Section 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003. In order to prove the offence under Section 6(b), the petitioner should have sold the cigarettes or tobacco products to a person, who is under 18. In case if the said offence is proved, the petitioner/vendor is liable for punishment with fine, which may extend up to Rs.200/-.

6. Since the punishment for the aforesaid offence is only with fine of Rs. 200/-, the charge sheet should have been filed within a period of 6 months from the date of offence. However, in the case on hand, even after a lapse of 2½ years, the respondent police did not file the charge sheet. Once the charge sheet is not filed within the prescribed period under 468 Cr.P.C., cognizance cannot be taken for the offences under Sections 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003, thereby this petition is liable to be allowed.



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7. In the result, this Criminal Original Petition is allowed. The FIR in Crime No.85 of 2021 dated 20.01.2021 is hereby quashed. Consequently, connected Miscellaneous Petition is closed.

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

19.09.2023

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To

1. The Inspector of Police,
Woraiyur Police Station,
Trichy District.

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



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DR.D.NAGARJUN. J.

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