



CrI.O.P.(MD) No.16434 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	Pronounced on
21.09.2023	27.09.2023

CORAM:

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

CrI.O.P.(MD) No.16434 of 2023
and
CrI M.P (MD) Nos. 13083 & 13084 of 2023

Saravanan

... Petitioner

Vs.

The Inspector of Police,
PEW Palani Police station,
Dindigul District.
(Crime No. 212 of 2019

...Respondent

PRAYER : Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records pertaining to the charge sheet in C.C No. 105 of 2020 on the file of the Judicial Magistrate, Palani and quash the same as illegal in so far as the petitioner concerned.



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For Petitioner

: Mr.T.Lenin Kumar

For Respondent

: Mr.E.Antony Sahaya Prabahar,
Additional Public Prosecutor

ORDER

This Criminal Original Petition is filed under Section 482 of Cr.P.C. seeking quashment of C.C.No.105 of 2020, on the file of the learned Judicial Magistrate, Palani, registered against the petitioner / Accused No.2 for the offence under Sections 4(1)(a) and 24 of the Tamil Nadu Prohibition Act, 1937.

2. The facts and brief as gathered from the record is that on 02.03.2019, at about 07.00 A.M., the Officers of the Prohibition Enforcement Division, Palani, were patrolling to ensure the prohibition of liquors. They have surprised SKN Boarding Lodge FLE 132, situated at Thillaiyadi Valliammai Street, Park Road and found Accused No.1 had kept the following liquor bottles for sale: MGM Diamond XXX Rum-8 bottles (each 180 ML), Express Brandy-11 Bottles (each 180 ML), No.1 MC Dowells Brandy 4 bottles (each 180 ML), Accord Brandy-4 Bottles (each 180 ML) and totally, they found 25 bottles. Since the said person has violated the Tamil Nadu Prohibition Act and Regulations,



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Accused No.1 was enquired, who stated to have reported that he has kept the liquor bottles for sale and gave the confession that the said liquor bottles were given by the petitioner / Accused No.2. Accused No.1 was arrested and liquor bottles were seized. Accused No.1 brought to the Police Station along with the seizure property and a case was registered against the accused in Crime No.212 of 2019 for the offence under Sections 4(1)(a) and 24 of the Tamil Nadu Prohibition Act, 1937. After completion of enquiry, charge sheet was filed by recording the submission of the Head Constable of the Palani Prohibition Enforcement Division and another Head Constable of the Palani Prohibition Enforcement Division.

3. Heard both sides and perused the records.

4. As per the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, as amended, an individual can possess 4.5 litres of IMFL for his own consumption. Accused No.1 was in possession of 25 bottles of IMFL liquor containing 180 ML each. The total quantity of the said liquor comes to 4.5 litres, that means Accused No.1 was not found in possession of liquor beyond 4.5 litres, thereby, he has not committed any offence.



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5. Further, the petitioner / Accused No.2 was not present when the liquor was seized. The petitioner was not found with possession of any liquor. The only ground on which the petitioner was roped in this case is the confession of Accused No.1, which was recorded not before the independent witnesses. The confession statement recorded by the respondent Police is hit under Section 25 of the Indian Evidence Act, 1872. Except confession of Accused No.1, there is material connecting the petitioner / Accused No.2 with the offence.

6. Further, it is the case of the petitioner that Accused No.1 has kept those liquors for sale. There is no record before the Court that Accused No.1 has got them for sale and no customer has reported to the respondent Police that he has purchased the liquor from Accused No.1 and no money was seized from Accused No.1 to show that he has sold the liquor to others. Without there being any material that the allegations against Accused No.1 and the petitioner that they stored the liquor for sale cannot be accepted.

7. Further, the liquor is being freely sold by the Government Shops. When the liquor is abundantly available in the open markets, there is no reason as to why the liquor has to be sold secretly.



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8. Finally, the respondent Police have not sent the sample of the liquor to the chemical laboratory to show that what all they seized is the liquor unless there is a report from the authorized laboratory that the respondent Police have seized only is the IMFL, it cannot be stated that they have committed the offence under the Tamil Nadu Prohibition Act, 1937.

9. In view of the discussion made above, C.C.No.105 of 2020 on the file of the learned Judicial Magistrate, Palani, registered against the petitioner is hereby quashed.

10. Accordingly, the Criminal Original Petition is allowed. Consequently, the connected miscellaneous petitions are closed.

27.09.2023

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

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DR.D.NAGARJUN. J.

tsg

To

1. The Judicial Magistrate,
Palani,
Dindigul District.
2. The Inspector of Police,
PEW Palani Police station,
Dindigul District.
(Crime No. 212 of 2019)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Pre-Delivery Order made in
Crl.O.P.(MD) No.16434 of 2023

27.09.2023