



Crl.O.P.(MD)No.16598 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on	22.09.2023
Delivered on	29.09.2023

CORAM

THE HON'BLE DR.JUSTICE D.NAGARJUN

Crl.O.P.(MD)No.16598 of 2023
and Crl.M.P.(MD) Nos.13220 and 13221 of 2023

V.Nehru

... Petitioner/
Accused

Vs.

1. The Inspector of Police,
Vengamedu Police Station,
Karur District.
(Crime No.424 of 2021)

... 1st Respondent/
Complainant

2.The Sub Inspector of Police,
Vengamedu Police Station,
Karur District.

2nd respondent/
Defacto complainant

PRAYER : Criminal Original Petition filed under Section 482 of Criminal Procedure Code, to call for the records pertaining to S.T.C.No. 1877 of 2023 pending on the file of the learned Judicial Magistrate No.I, Karur and quash the same.

For Petitioners : Mr.N.Marimuthu



WEB COPY



Crl.O.P.(MD)No.16598 of 2023

For Respondents : Mr.E.Antony Sahaya Prabahar
Additional Public Prosecutor
for R1

ORDER

This petition is filed seeking for quashment of S.T.C.No.1877 of 2023 pending on the file of learned Judicial Magistrate No.1, Karur.

2. The facts as narrated by the petitioner would go to show that on 15.06.2021 at about 4.30 p.m. the defacto complainant who is the Sub-Inspector of Police of Vengamedu Police Station of Karur District has surprised the house of the petitioner and found 8 Nos. of 180 ML quarter bottles containing IMFL and sum of Rs.19,320/-. Both of them were seized and a case has been registered in Crime No.424 of 2021 for the offences under Sections 4(1)(a) and 4(1)(i) of the Tamil Nadu Prohibition Act and on completion of investigation filed charge sheet in S.T.C.No.1877 of 2023.

3. Learned counsel for the petitioner submits that even according to the Government Order in G.O.Ms.No.14, H.P & E VI Department,



Crl.O.P.(MD)No.16598 of 2023

dated 09.06.2017 the quantity of liquor which was found in possession of the petitioner is far less than the limit prescribed for an individual allowed to possess liquor, thereby sought for quashment of the charge sheet.

4. Learned Additional Public Prosecutor fairly conceded the case in favour of the petitioner.

5. Heard both sides and perused the record.

6. According to prosecution, the petitioner was found with 8 Nos. of 180 ML IMFL thereby total quantity of liquor found in possession of the petitioner is 1440 ML and the State has amended the G.O.Ms.No.14 (supra) concerned vide the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, in respect of possession of liquor to each individual for personal consumption up to 4.5 litres. However, the total quantity of liquor found in possession of the petitioner is 1440 ML which is far less the permissible quantity of 4.5 litres. Thereby, Section 4(1)(a) and 4(1)(i) of the Tamil Nadu Prohibition Act will not be applicable to



Crl.O.P.(MD)No.16598 of 2023

the facts of the case.

WEB COPY

7. As seen from the charge sheet, the respondent police have not only seized the liquor bottles but also seized a sum of Rs.19,320/- in order to impress that the petitioner has stored the liquor bottles in his house for sale. The amendment in Government Order in G.O.Ms.No.14 (supra) dated 09.06.2017 was only in respect of personal consumption if at all a person is in possession of any liquor irrespective of quantity for the purpose of sale, it is offence. Thereby, an attempt was made by the prosecution to prove that a sum of Rs.19,320/- was found in the house of the petitioner as if the petitioner was selling the liquor. In the first place, nobody complained to the respondent police that the petitioner is selling liquor. Liquor is abundantly available in the shops and once the liquor is abundantly available why anybody go to the petitioner for buying liquor for more money than market rate. Further, since the money was seized from the petitioner, normally, every individual may have some money, it cannot be attributed that money which seized from the petitioner is gained by way of selling liquor. Further the respondent police have not sent the seized liquor bottle to the Chemical Analysis to prove that all



Crl.O.P.(MD)No.16598 of 2023

containing in the liquor bottle is IMFL. Therefore, there is no basis for the charges levelled against the petitioner to substantiate that the petitioner has violated the provisions of the Tamil Nadu Prohibition Act.

8. In the result, this criminal original petition is allowed and the proceedings in S.T.C.No.1877 of 2023 pending on the file of the learned Judicial Magistrate No.I, Karur, are hereby quashed. Consequently, the connected miscellaneous petitions are closed.

29.09.2023

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
PKN

To

1. The Inspector of Police,
Vengamedu Police Station,
Karur District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.O.P.(MD)No.16598 of 2023

DR.D.NAGARJUN,J

PKN

Crl.O.P.(MD)No.16598 of 2023

Dated: 29.09.2023