



Crl.O.P.(MD).No.16739 of 2019

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE P.DHANABAL

Crl.O.P.(MD).No.16739 of 2019

and

Crl.M.P(MD) No.9919 of 2019

1. Ayyar
2. Jeyakumar

... Petitioners

Vs.

1. The Inspector of Police
Thalavaipuram Police Station,
Virudhunagar District

2. Guruvuthai
Sub Inspector of Police
Thalavaipuram Police Station,
Virudhunagar District

..Respondents

PRAYER: This Criminal Original Petition has been filed under Section 482 of Criminal Procedure Code, to call for the records and quash the proceedings in C.C. No.282 of 2018 pending on the file of the Judicial Magistrate, Rajapalayam.

For Petitioners	: Mr.R.Niresk Kumar
For R-1	: Mr.M.Sakthikumar
	Govermemnt Advocate(Crl.Side)
For R-2	: No appearance

ORDER

This Criminal Original Petition has been filed to quash the proceedings in C.C. No.282 of 2018 pending on the file of the learned Judicial Magistrate, Rajapalayam



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2. According to the petitioners a false case has been foisted against them alleging that on 15.01.2017 the police party attached to the Rajapalayam South Police Station received instruction from the Superintendent of Police to have a check of illegal sale of liquor within the taluk, since on 15.01.2017 the tasmac shops and bar attached to it remained closed due to Tiruvalluvar day. When they went to check up four people flood away from the bar attached to the tasmac shop bearing No. 11947. After enquiring one Ganesan it was found that the said bar was leased out to one Rengasamy and only on his instructions A1 to A5 were illegally selling the liquor on 15.01.2017. The said bottles were procured by paying extra money to the Salesman and Supervisor attached to the said tasmac shop. Hence the charge sheet was filed for the offences under Sections 4(1)(aaa), 4(1)(i) and 24 of Tamil Nadu Prohibition Act. These petitioners are salesman and Supervisor of tasmac shop and none of the ingredients for the above said offence are made out. As per the complaint the respondent police have registered First Information Report as against the petitioners and also filed final report without conducting proper investigation, hence the final report is liable to be quashed.

3. The learned counsel for the petitioners would submit that these petitioners are Salesman and Supervisor of the tasmac shop and



they are not connected with the alleged occurrence and even according to the allegation the offences under Sections 4(1)(aaa), 4(1)(i) and 24 of TNP Act would not attract, since they are not having possession of liquor and there are not license holder and also not selling liquor, thereby none of the ingredients would attract as against these petitioners and hence the Charge Sheet is liable to be quashed.

4. The learned Government Advocate(Crl.Side) also fairly concedes that Section 4(1)(aaa) will only attract when persons having illegal possession of liquor and Section 4(1)(i) will attract only when persons illegally selling liquor and Section 24 of TNP Act is with regard to license holder. These petitioners are only Salesman and Supervisor of TASMAC, therefore he prayed that this Court may pass appropriate orders.

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

6. On perusal of the records, it is observed that the respondent police have registered the First Information Report in Crime No. 15 of 2017 for the offences under Sections 4(1)(aaa), 4(1)(i) and 24 of Tamil Nadu Prohibition Act as against the petitioners and others and also filed final report and the same has been taken cognizance by the learned



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Judicial Magistrate, Rajapalayam in C.C. No.282 of 2018. In order to attract Sections 4(1)(aaa), 4(1)(i) and 24 of TNP Act the petitioners have to be imports, exports, transports or possesses liquor of one hundred litres and above. Sale of liquor or any intoxicating drug and breached the conditions of licence or permit granted to them, obviously these petitioners are working in the TASMACH shop as Sales man and Supervisor , therefore the ingredients of offences under Sections 4(1)(aaa), 4(1)(i) and 24 of TNP Act would not attract as against the petitioners. The respondent police without conducting proper investigation filed final report and the same was taken on file by the learned Magistrate in C.C.No.282 of 2018. In view of the above the charges against the petitioners are liable to be quashed.

7. Accordingly this Criminal Original Petition is allowed and the proceedings in C.C. No.282 of 2018 pending on the file of the Judicial Magistrate, Rajapalayam is hereby quashed as against the petitioners alone. Consequently connected miscellaneous petition is also closed.

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Index : Yes / No
Internet : Yes / No
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1. The Judicial Magistrate, Rajapalayam
2. The Inspector of Police
Thalavaipuram Police Station,
Virudhunagar District
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL, J.

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