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CrI.O.P.No.13819 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.13819 of 2024
& CrI.M.P.No.8419 of 2024

1. Praveen Kumar ... Petitioner/Accused

/versus/

1. State Represented by its,
The Inspector of Police,
Pennagaram Police Station,
Dharmapuri.

2. K.Jegan. ... Respondents/Defacto complainant

Prayer: Criminal Original Petition has been filed under Section 482 of Cr.P.C.,
to call for the records relating to the Crime No.61 of 2024 on the file of the
respondent police and quash the same.

For Petitioner : Mr.V.Balamurugan

For R1 : Mr.S.Udaya Kumar,
Government Advocate (CrI.Side)



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ORDER

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This Criminal Original Petition is filed to call for the records relating to the Crime No.61 of 2024 on the file of the 1st respondent police

2. The 2nd respondent, who was engaged in job of surveillance during the election as a member of Election Flying Squad had intercepted a vehicle bearing Reg.No.KA-01-NA-1119 near Pennagaram to Perumbalai X road falling within Indoor Police Station limit. The defacto complainant found the occupants of the car were in possession of Karnataka State Liquors i.e., MC Dowell's Brandy (1000 ML-2)Bottles, BEJOIS Brandy 750 ML-2 Bottles, Old Taver Whisky 180ML-4, Kingfisher 500ML-5 Tins Beer.

3. On the complaint, the 1st respondent has registered a case against Praveen Kumar and Ravi Kumar, who are the driver and occupant of the car. The Learned Counsel appearing for the petitioner states that as per G.O.Ms.No.75 Prohibition and Excise Department, dated 16.04.1996, Rules 1996, Tamil Nadu Liquor (Possession for Personal Consumption) been framed and as per the table as amended by G.O.Ms.No.14 dated 09.06.2017, a person is entitled to possess 4.5 litres of Indian Made Foreign Spirit and 7.8 litres of



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beer. Contending that what was seized from the petitioner was well within the limit prescribed for personal consumption and therefore, the complaint has no legs to stand to prosecute the petitioner for the offence under Section 4 (1) (a) Tamil Nadu Prohibition Act.

4. The Learned Government Advocate (Crl.Side) for the 1st respondent submits that the possession of IMFL not properly explained. The total quantity of liquor possessed by the petitioner is 6720ML which is above the limit prescribed under the Government Order.

5. According to the Learned Government Advocate (Crl.Side) for the 1st respondent the quantity prescribed for each category of liquor cannot be taken together but independently and exclusively. Since the quantity of liquor exceeds the limit of 4.5 litres, the prosecution has to sustain. The said interpretation of the Government Advocate (Crl.Side) is not correct, since the language of the Rules does not say the total quantity put together shall not exceed the prescribed limit. It is very specific and under each category the maximum limit has been prescribed. From the reading of the petition and table, this Court is of the view that a person is entitled to have in his possession of all the four categories of liquor up to the maximum limit prescribed. For reference, the Rules along with



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the table is extracted below:-

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The Tamil Nadu Liquor (Possession for Personal Consumption) Rules 1996.

(G.O.Ms.No.75, P&E., dated 16th April 1996)

RULES

1. Short title and commencement.- (1) These rules may be called the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996.

(2) These rules shall come into force with effect on and from the 25th April 1996.

2. Possession of liquor for personal consumption.- No person shall possess the liquor mentioned in column (1) of the Table below, which have already been specified under sub – clause (i) of clause (j) of sub-section (i) of Section 4 of the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937), for personal consumption, in excess of the quantity specified in the corresponding entries in column (2) thereof

1 TABLE

Amended vide G.O.(MS) No.14, H.P&EVI Department, dated 09.06.2017.

<i>Liquor</i>	<i>Quantity (in Litres)</i>
<i>(1) Indian Made Foreign Spirits</i>	<i>4.5</i>
<i>(2) Foreign Liquor</i>	<i>4.5</i>
<i>(3) Beer</i>	<i>7.8</i>
<i>(4) Wine</i>	<i>9.0</i>



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6. This Court is of the view that, if the intention of the legislature is to restrict the quantity of all categories put together, then necessary clarification must be issued by the Government making it very specific. As on the date of seizure the possession of the 6720ML of Indian Made Foreign Liquor by the petitioner was well within the permissible limit. Therefore, prosecution bound to be quashed.

7. Accordingly, the ***Criminal Original Petition is allowed.*** The petition to quash the complaint in Crime No.61 of 2024 on the file of the 1st respondent police is hereby allowed. Consequently, connected Miscellaneous Petition is closed.

03.07.2024

Index : Yes/No.

Neutral Citation : Yes/No.

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Copy to:-

- 1.The Inspector of Police, Pennagaram Police Station,Dharmapuri.
2. The Public Prosecutor, High Court, Madras.



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Dr.G.JAYACHANDRAN, J.

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