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CrI.OP.No.19379 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Criminal Original Petition No.19379 of 2024
and CrI MP No.11370 of 2024

Varur Arora
S/o.Sunil Kumar Arora,
Director of SRAM Indian Logam Pvt. Ltd.,
residing at Khasra No.223, 224, 225
Farm No.2, Omkara Farms, Shohrapur,
Shahur Pur, South Delhi,
Delhi 110 074.

... Petitioner

Vs.

1. The State Rep. by
Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore.
2. Mr.Hetram Siyag,
Airport Staff,
INS EXE CISF UNIT ASG,
Coimbatore Airport,
Coimbatore 641 014.

... Respondents

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C., and under Section 528 of BNSS, 2023, praying to call for the entire records pertaining to the FIR in Crime No.1117 of 2021 dated 05.12.2021 on the file of the first respondent and quash the same.



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For Petitioner : Mr.K.S.Shankar Chakrapani
For Respondents : Mr.S.Udayakumar
Government Advocate (Crl. Side)
for R1

ORDER

The petitioner herein was intercepted by CISF personnel at Chennai Airport and the substances carried by him were suspected to be an explosive and hence FIR was registered against him for offence under Section 5 of the Explosive Substances Act, 1909.

2. The learned counsel appearing for the petitioner would submit that the petitioner is an Industrialist trading in Lead connected materials and he was carrying the said substances for lawful purpose viz. to test the substance in the Laboratory at Thrissur. On a mistaken presumption that the substances are explosive in nature, the petitioner has been arrested and investigation is pending against him.

3. The learned Government Advocate (Crl. Side) submits that the



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samples from the substances required from the petitioner sent to Laboratory and the lab test indicates that it contains Sulphur and Aluminium which has low intensive explosive character.

4. Section 5 of the Explosive Substances Act, reads as below:

5. Punishment for making or possessing explosives under suspicious circumstances.—Any person who makes or knowingly has in his possession or under his control any explosive substance or special category explosive substance, under such circumstances as to give rise to a reasonable suspicion that he is not making it or does not have it in his possession or under his control for a lawful object, shall, unless he can show that he made it or had it in his possession or under his control for a lawful object, be punished,—

(a) in the case of any explosive substance, with imprisonment for a term which may extend to ten years, and shall also be liable to fine;

(b) in the case of any special category explosive substance, with rigorous imprisonment for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

If the petitioner is able to establish that he was carrying the substance



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lawfully and he had no intention to use it for any unlawful purpose then

Section 5 of the Explosive Substances Act, will not get attracted.

Therefore, it is appropriate to direct the respondent to investigate the matter properly and ascertain the purpose for which the petitioner carrying the substance. If it is found that he was carrying it for lawful purpose viz. to subject the substance for laboratory test then the respondent Police shall take appropriate decision and drop action.

5. With the above observation, the Criminal Original Petition is disposed of. Consequently, the connected miscellaneous petition is closed.

29.08.2024

jv

Index: Yes/No

Internet: Yes/No

To



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1. The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore.

2. The Public Prosecutor,
High Court of Madras,
Chennai.



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Dr.G.JAYACHANDRAN,J.

jv

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