



WEB COPY



Crl. O.P. No.23346 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.09.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.23346 of 2024

and

CRL.MP.No.13218 of 2024

1.G.Santhi

2. G. Vasantha Kumar

.. Petitioner

Vs.

1. State represented by

Inspector of Police,

T4 Maduravoyal Police Station,

Maduravoyal

Chennai - 600095

... Respondent

Prayer: Criminal Original Petition is filed under Section 528 of BNSS, to call for the records and quash the FIR registered in Cr.NO.1175 of 2021 on the file of the respondent police on 19.10.2021 as no final report could be filed in view of the limitation prescribed under Section 468 of Cr.P.C.,

For Petitioner : Mr.V.Ramanurthy

For Respondent : Mr. K.M.D.Muhilan
Government Advocate (Crl.Side)



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ORDER

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2. The FIR states that on 19.10.2021 when the police attached to Prohibition Team were on patrol, receiving information about illicit selling of Pondicherry liquor on the day of Milad-un-Nabi, they had apprehended these two petitioners and from their possession, two gunny bags recovered from the first petitioner contain 750 ml Director's Club Brandy 18 numbers, 180ml Black Pearl Brandy 99 bottles, 180 ml French Club Brandy 72 bottles, 650 ml SNJ Beer 9 Bottles and also 1120 pieces of MDM Gold Gutka 14 packets.

3. It is found in the complaint that in one of the Directors' Club Bottle which was opened and had a poisonous odour suspecting that it would have been mixed with some other poisonous substance, the same was sealed and marked as S1 and sent it to laboratory test.

4. The petitioner herein contends that the case against them has been foisted for statics purpose and Section 41A of Prohibition Act been wantonly implicated as if the contrabands seized from the first petitioner



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contains poisonous substance. However, even after lapse of three years the suspected material not sent for forensic analysis. He further submits that the punishment prescribed for Section 4(1)(aa) of Prohibition Act and Section 24(1) of Cigarette and Other Tobacco Products Acts, 2003 are punishable upto six months and whereas the offence 4(1-A) of Tamilnadu Prohibition Act the punishment is prescribed up to ten years or the life, since substance not been subjected to chemical analysis, the presumption of the Officer who has registered the FIR that 750 ml bottle of Directors' Club Branch contains poisonous substance on the face of it is not made out. He further submits that since the final report in this case not been filed within a period of one year which is time prescribed under Section 468 of Cr.P.C, even on that ground of limitation the FIR to be quashed.

5. Taking note of the fact that after seizure the suspected substance not sent to analysis to bring the accused under Section 4(1-A) of Prohibition Act. The other offences are punishable only upto six months, but final report not filed even after lapse of the three years.

6. In the said circumstances, this Court is of the view that the FIR has to be quashed on the ground of limitation and failure to investigate as found in the FIR.



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7. Accordingly, this Criminal Original Petition is allowed.

Consequently, the connected miscellaneous petition is closed.

24.09.2024

Vv

To

1.The Inspector of Police,
T4 Maduravoyal Police Station,
Maduravoyal
Chennai - 600095

2.The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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