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CrI.O.P.No.26238 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.10.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.O.P.No.26238 of 2024

1. Srinivasan.

2. Anand.

... Petitioners/Accused

/versus/

State by,

The Inspector of Police,

E3, Teynampet Police Station,

Greater Chennai, Chennai.

... Respondent/Complainant

Prayer: Criminal Original Petition has been filed under Section 528 BNSS, pleaded to call for the records in Crime No.255 of 2024 pending on investigation on the file of respondent police and quash the same.

For Petitioners : Mr.K.P.Anantha Krishna

For Respondent : Mr.S.Udaya Kumar.

Government Advocate (CrI.Side)

ORDER

The First Information Report been registered against the petitioners on 21.07.2024 alleging that they were serving liquor at night beyond 12.00 a.m and therefore, had violated the offences under Section 24 & 4(1)(k) of Tamil Nadu Prohibition Act.



CrI.O.P.No.26238 of 2024

2. The Learned Counsel for the petitioners states that the petitioner's hotel been granted license to serve liquor in the hotel round the clock and said right to serve liquor round the clock is clarified through a circular of the Commissioner of Prohibition and Excise, dated 27.03.2013 stating the liquor can be served in the lawns and appurtenants to the hotels to the public coming for consuming liquor in the hotels. While so, when there is no violation of provision under the Tamil Nadu Prohibition Act, F.I.R. has been registered erroneously and hence to be quashed.

3. Further, the Learned Counsel also submits that the petitioners were shown as an accused. They are only employees of the hotel. However, shown as owner of the Bar and Manager of the Bar.

4. The counter filed by the Inspector of Police, E-3, Teynampet Police Station, Law & Order, Chennai indicates that the Special Team of Prohibition Wing went round the city to ensure bars are closed at 12.00 night. They found Hayatt Hotel Bar operating till 02.30 a.m. The search conducted led to recovery of two 750-ml liquor bottles, each containing 300 ml of liquor, along with two empty glasses. The same was seized under the cover of seizure mahazar, and thereafter, the case was registered in Crime No.255/2024 and



CrI.O.P.No.26238 of 2024

investigation proceeded.

WEB COPY

5. From the counter, it further indicates that on completion of the investigation, the absconding charge sheet was filed before the Learned XVIII Metropolitan Magistrate Court, Saidapet, through e-filing LTN20230000491C202400096, dated 03.08.2024 and the same was taken on file in S.R.No.24672 of 2024. The counter of the Investigating Officer is silent about the license issued to M/s.Hayatt Regency Robust Hotel Private Limited by the Commissioner of Prohibition and Excise *vide* order dated 27.08.2024, renewal of the license upto 31.03.2025 and various clarifications issued by the Prohibition and Excise Department as well as the Commissioner of Police regarding the time restriction.

6. The said silence, which is conspicuous in this matter, would clearly show that the prosecution is contrary to the license granted by the Government and instructions given by the CoP. While license granted to the Hotels to run the Bars 24x7, the seizure and prosecution alleging that liquor was served to the consumers at 2.30 a.m., though not prohibited under the Act, would clearly indicate that it is a malicious prosecution with ulterior intention.



CrI.O.P.No.26238 of 2024

7. Accordingly, this ***Criminal Original Petition is allowed.*** The

F.I.R in Crime No.255 of 2024 pending on the file of the Inspector of Police,

E3, Teynampet Police Station, Greater Chennai, Chennai is hereby quashed.

29.10.2024

Index : Yes/No

Neutral Citation : Yes/No

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To,

1.The Inspector of Police, E3, Teynampet Police Station,
Greater Chennai, Chennai.

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



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CrI.O.P.No.26238 of 2024

Dr.G.JAYACHANDRAN,J.

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CrI.O.P.No.26238 of 2024

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