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CrI.O.P.(MD)No.4848 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **23.02.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

CrI.O.P.(MD) No.4848 of 2022

and

CrI.M.P.(MD).No.3428 of 2022

1.Palanivel

2.Kannan

... Petitioners/ Accused Nos.1 & 2

Vs.

1.The State through
The Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.
Crime No.184 of 2021.

2.S.Ponraj,
The Sub-Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.

...Respondents

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to quash all the further proceedings of the case in C.C.No.457 of 2021 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

For petitioner : Mr.S.Karthikeyan

For R-1 : Mr.S.Manikandan
Government Advocate
(Criminal Side)

For R2 : No appearance



ORDER

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This petition has been filed seeking to quash all the further proceedings of the case in C.C.No.457 of 2021 on the file of the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.

2. The case of the prosecution is that on 19.05.2021, the second respondent/Sub-Inspector of Police, Ettayapuram Police Station, conducted vehicle inspection and during that time, the petitioners were found in illegal possession of 20 white gunny bags of Saffron Blended Vimal Pan Masala and 4 white gunny bags of V-1 Tobacco which were worth about Rs.7,00,000/-. Hence, a case was registered against the petitioners in Crime No.184 of 2021 for the offence punishable under Sections 294(b), 353, 506(1) IPC and Section 24(1) of Cigarette and other Tobacco Products Act, 2003, and after completion of investigation, the first respondent Police filed a charge sheet before the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District, and the the learned Judicial Magistrate has taken cognizance in C.C.No.457 of 2021 for the offence punishable under Sections 294(b), 353, 506(1) IPC and Section 24(1) of Cigarette and other Tobacco Products Act, 2003.



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3. The learned counsel appearing for the petitioners would submit that a false case has been foisted against the petitioners and there is no specific allegation as against the petitioners.

4. The learned Government Advocate (Crl. Side) would submit that there are materials available to proceed with the case as against the petitioners herein and at the threshold, the criminal proceedings cannot be quashed and the charges against the petitioner have to be gone into only at the time of trial and hence, he prayed for dismissal of the petition.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioners, if they are subjected to due trial as sufficient opportunity would be given to the petitioners to put forth their defence. The petitioners cannot be let by quashing the charges framed against them as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against them. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in *State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)*.



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6. For the reasons aforesaid, this Court finds no ground or scope to quash C.C.No.457 of 2021, pending on the file of the learned Judicial Magistrate No.II, Kovilpatti, Thoothukudi District. Accordingly, this Criminal Original Petition is dismissed.

7. The learned counsel appearing for the petitioners would submit that this Court may consider to dispense with the personal appearance of the petitioners before the court below and may permit the petitioners to canvass all the points raised in this petition before the trial Court during the time of trial.

8. Taking into consideration the request as made by the learned counsel for the petitioners, the appearance of the petitioners before the trial court is dispensed with except for their appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioners is necessary, the trial court, at its wisdom, shall direct their appearance on those days. Liberty is granted to the



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petitioners to canvass all the points raised in this petition before the trial Court during the time of trial. Consequently, connected miscellaneous petition is closed.

23.02.2024

Index : Yes/No
Internet : Yes/No
ssb

To

1. The Judicial Magistrate No.II, Kovilpatti, Thoothukudi District.
- 2.The Inspector of Police,
Ettayapuram Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI. J.

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