



WEB COPY



CRL OP(MD). No.12495 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 02.08.2024

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THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.OP(MD)No.12495 of 2024

and

CRL.MP(MD)No.7725 of 2024

Kesavaperumal

... Petitioner

Vs

1. The Inspector of Police,
Kallikudi Police Station,
Madurai District.
(Crime No.217/2021)

2. S.Ramar,
Sub Inspector of Police,
Kallikudi Police Station,
Madurai.

... Respondents

Prayer : Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the FIR in Crime No.217 of 2021 on the file of the 1st respondent police and quash the same as illegal, so far as the petitioner is concerned.



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For Petitioner : Mr. K.S.Duraipandian
For R-1 : Mr.M.Sakthi Kumar
Government Advocate (Crl. side)

ORDER

This Criminal Original Petition is filed to quash the First Information Report in Crime No.217 of 2021 pending on the file of the first respondent police, insofar as the petitioner is concerned.

2.The learned Counsel for the petitioner submits that even according to the respondent police, the contraband which has been recovered from the petitioner is only a tobacco product, which may be injurious to health but not a poisonous substance. However, a case has been registered in Crime No.217 of 2021 for the offence under Section 328 of IPC.

3.The learned Government Advocate (Crl. Side) on instruction from the respondent police submits that the samples which has been



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recovered from the petitioner are prohibited tobacco products. Therefore, the case has been registered for the offence under Section 328 of IPC.

He further submits that the samples which have been recovered from the petitioner, were sent to a Chemical Analyzer and the Chemical Analyzer's report is awaited. Depending upon the Chemical Analyzer's report only, the respondent police would file the final report for the offence under Section 328 of IPC.

4.This Court considered the rival submissions made.

5.The contraband involved in this case is the prohibited tobacco products. The police, on apprehension, registered a case under Section 328 of IPC that it may be a poisonous substance. However, they have taken a specific stand that only based on the Chemical analysis report, they would proceed with the offence under Section 328 of IPC.

6.Recording the submission of the learned Government Advocate (Crl. Side), this Criminal Original Petition is disposed of with a direction to the respondent police to find out whether any poisonous substance is



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available and take a call in proceedings with the offence under Section 328 of IPC. Consequently, connected miscellaneous petition is closed.

02.08.2024

NCC : Yes/No

Index : Yes/No

Internet: Yes

jbr

To

1. The Inspector of Police,
Kallikudi Police Station,
Madurai District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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B.PUGALENDHI,J

jbr

Order made in
Crl.O.P.(MD)No.12495 of 2024

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