



WEB COPY



CrI.O.P.(MD)No.14691 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **08.03.2024**

CORAM:

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

**CrI.O.P.(MD) No.14691 of 2022**  
**and**  
**CrI.M.P.(MD).Nos.9534 & 9535 of 2022**

Alwin

... Petitioner

Vs.

1.The State,  
Represented by  
the Inspector of Police,  
Mandaikadu Police Station,  
Kanyakumari District.  
(Crime No.68 of 2020)

2.Muthukrishnan

...Respondents

**PRAYER:** Criminal Original Petition is filed under Section 482 of Cr.P.C, calling for the charge sheet in S.T.C.No.763 of 2022 on the file of the learned Judicial Magistrate, Eraniel and quash the same.

For petitioner

: Mr.S.C.Herold Singh

For R-1

: Mr.S.Manikandan,  
Government Advocate  
(Criminal Side)



WEB COPY



CrI.O.P.(MD)No.14691 of 2022

### **ORDER**

This petition has been filed seeking to quash the charge sheet in S.T.C.No.763 of 2022 on the file of the learned Judicial Magistrate, Eraniel, insofar as the petitioner is concerned.

2. The case of the prosecution is that the petitioner was found in illegal possession of alcohol and he has kept soaked dates, pine apple, grapes, banana, neem bark and yeast for preparing alcohol. It is alleged that the second respondent Police has collected two samples of 180 ML of Alcohol in two plastic bottles from the petitioner herein and the same was sealed. Hence, the second respondent made a complaint before the first respondent Police and the first respondent Police has registered a case in Crime No.68 of 2020 for the offence punishable under Section 188 IPC and Sections 4 (1)(a) and 4(1)(g) of the Tamil Nadu Prohibition Act. Thereafter, the first respondent has conducted investigation and after completing investigation, they filed a charge sheet before the learned Judicial Magistrate, Eraniel and the same was taken on file in S.T.C.No.763 of 2022.



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

4. The learned Government Advocate (Criminal Side) appearing for the respondent Police would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

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 petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. 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)***

6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.763 of 2022 on the file of the Judicial



Crl.O.P.(MD)No.14691 of 2022

Magistrate Court, Eraniel. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petitions are closed.

7. At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his 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 petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

**08.03.2024**

Index : Yes/No  
Internet : Yes/No  
TSG



Crl.O.P.(MD)No.14691 of 2022

To

1.The Judicial Magistrate, Eraniel

2.The Inspector of Police,  
Mandaikadu Police Station,  
Kanyakumari District.

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

WEB COPY



WEB COPY



CrI.O.P.(MD)No.14691 of 2022

**M.DHANDAPANI. J.**

TSG

**CrI.O.P.(MD)No.14691 of 2022**

**08.03.2024**