



Crl.O.P.(MD)No.15042 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.03.2024

CORAM:

THE HONOURABLE MRS.JUSTICE R. HEMALATHA

Crl.O.P.(MD)No.15042 of 2021 &  
Crl.M.P.(MD)No.8037 of 2021

1.Sekar  
2.Ravichandran  
3.Pitchai  
4.Murugan  
5.Balakrishan  
6.Balusamy  
7.Andi

... Petitioners

VS.

1.State rep. by its  
Inspector of Police,  
Thirunagar Police Station,  
Madurai City.  
(Crime No.1005 of 2020)

2.Saravanakumar,  
The Inspector of Police,  
Thirunagar Police Station,  
Madurai City.

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure praying to call for the records pertaining to the charge sheet in S.T.C.No.1338 of 2021 dated 18.12.2020 on the file of the Judicial Magistrate No.VI, Madurai and quash the same.



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For Petitioners : Mr.S.Veeransamy  
For Respondents : Mr.M.Sakthi Kumar,  
Government Advocate (Criminal Side)

### ORDER

Seeking to quash the final report in S.T.C.No.1338 of 2021 on the file of the Judicial Magistrate No.VI, Madurai, the present petition is filed by the accused 1 to 7.

2. The case of the prosecution in a nutshell is as follows.

2.1. The Inspector of Police, Thirunagar Police Station on receipt of information went to Thirunagar Town Club on 18.11.2020 at about 19.00 hours along with his team of police officials and found the present petitioners playing 52 cards for gain. The petitioners were immediately arrested and a sum of Rs.6,120/- was also recovered from them.

2.2. The Inspector of Police, Thirunagar Police Station registered FIR in Crime No.1005 of 2020 against the accused 1 to 7 for



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the offences punishable under Sections 8 and 9 of Tamilnadu Gaming Act, 1930 and after completing investigation, laid a final report before the Judicial Magistrate No.VI, Madurai in S.T.C.No.1338 of 2021 against all the accused for the aforesaid offences.

3. Mr.S.Veeransamy, learned counsel appearing for the petitioners would contend that Thirunagar Town Club is not a common gaming house as alleged by the prosecution and therefore, the present petitioners cannot be charged for the offences punishable under Sections 8 and 9 of Tamilnadu Gaming Act, 1930. He also relied on the decision of this Court in Crl.O.P.(MD)No.13039 of 2015 dated 23.10.2018 and contended that in order to decide a question as to whether a club, where gaming in cards is carried on, is a gaming house or not, the relevant consideration is not whether any member of the club makes a profit but whether the club, as a person, occupying or using or keeping the house or room makes a profit. In the instant case, there is no evidence to show that Thirunagar Club is a gaming house, is his contention. He would therefore contend that if the prosecution is allowed to continue, it would be a futile



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exercise as there is no scope for conviction. He thus, prayed for quashing the final report.

4. The Inspector of Police, Thirunagar Police Station filed a counter affidavit wherein he has stated that he visited the premises after obtaining necessary permission from the Deputy Superintendent of Police, Madurai on 18.11.2020 and found the present petitioners (accused) playing cards for gain. He has further stated that the card game played by the petitioners is not a game of skill and they are not also the members of Thirunagar Club. Therefore, he would contend that charging them for the offences punishable under Sections 8 and 9 of Tamilnadu Gaming Act, 1930 is perfectly in order.

5. Mr.M.Sakthi Kumar, learned Government Advocate (Criminal Side) appearing for the respondents 1 and 2 would contend that the police after conducting proper investigation laid a final report and there is no valid ground to quash the same.



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6. It is seen from the records that the present petitioners were found playing cards in the gaming house for money by the police officials and hence, they were arrested. A sum of Rs.6,120/- was also recovered from them. The contention of the learned counsel for the petitioners is that the Inspector of Police and his team cannot enter the premises, since Thirunagar Town Club is a registered club. However no records are produced to show that registration of the club was renewed periodically. The details showing the names of the members are not also produced.

7. According to the prosecution, the present petitioners are not the members of the club and they were found playing cards for gain. In the circumstances, charging of the present petitioners for the offences punishable under Sections 8 and 9 of Tamilnadu Gaming Act, 1930 is perfectly in order. The decision in CrI.O.P.(MD)No.13039 of 2015 dated 23.10.2018 would not apply to the facts of the present case for the simple reason that, in that case, the provisions of Section 6 of Tamilnadu Gaming Act,1930 has not been followed. However, in the instant case, the Inspector of Police, Thirunagar Police Station after obtaining necessary



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permission from the Deputy Superintendent of Police, Madurai had entered into Thirunagar Town Club and found the present petitioners playing cards for gain. Therefore, I do not see any reason to quash the final report.

8. Accordingly, the Criminal Original Petition stands dismissed.

Consequently, connected Miscellaneous Petition is closed.

19.03.2024

NCC: Yes/No

Index : Yes/No

Speaking/Non-Speaking order

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To

- 1.The Judicial Magistrate No.VI, Madurai.
- 2.The Inspector of Police,  
Thirunagar Police Station,  
Madurai City.
- 3.The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.



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R.HEMALATHA, J.

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