



CrI.O.P.(MD)No.16042 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 25.04.2024

CORAM:

THE HON'BLE MR JUSTICE A.A.NAKKIRAN

CrI.O.P.(MD)No. 16042 of 2021

and

CrIMP(MD)Nos.8608 & 8609 of 2021

Ammasikani

... Petitioner / Accused No.2

Vs.

1.State through

The Inspector of Police,
PWE Srivilliputhur,
Virudhunagar District.

(Crime No.1317 of 2020)

... 1st Respondent/Complainant

2.Mr.Mariappan,

The Sub-Inspector of Police,
Prohibition Enforcement Wing,
Srivilliputhur,
Virudhunagar District.

... 2nd Respondent/Defacto
Complainant

Prayer:Criminal Original Petition is filed under Section 482 Cr.P.C., to call for the entire records connected with the impugned charge sheet in STC.No. 223 of 2021 dated 17.02.2021 on the file of the learned Judicial Magistrate, Rajapalayam and quash the same as illegal.

For Petitioner : Mr.R.Alagumani

For R1 : Mr.K.R.M.Anbunithi
Additional Public Prosecutor



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ORDER

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This petition has been filed to quash the STC.No.223 of 2021 on the file of the learned Judicial Magistrate, Rajapalayam.

2. According to the prosecution is that the petitioner is running a petty shop at Devadhanam, Srivilliputhur. On 15.12.2020 at about 5.30 p.m, when the defacto complainant, who is the Inspector of Police along with police officials were on duty, they found that the petitioner was in possession of 47 bottles of Cardinal Brandy (each bottle contains 180 ml). The entire liquor quantity was recovered from the petitioner was measured as 8.460 litre. On enquiry, the petitioner informed the respondent police that he purchased all those bottles for the purpose of selling for a higher rate. The first respondent police registered First Information Report in Crime No.1317 of 2020 for the offences under Sections 4(1)(i) of TNP Act and thereafter, the case was charge sheeted in S.T.C. No.223 of 2023 and taken on file by the learned Judicial Magistrate, Rajapalayam.

3. The learned counsel appearing for the petitioner submitted that anybody can purchase liquor bottles from a shop directly and as far as the



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State of Tamil Nadu is concerned, there is no order of prohibition. In the circumstances, it is incomprehensible as to why a person should buy liquor from a shop and sell the same at higher rate. Mere possession of liquor bottles is not sufficient to hold that the petitioner sold the liquor. Hence, the charge sheet against the petitioner is liable to be quashed.

4. The learned Additional Public Prosecutor appearing for the State submitted that as per Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996 in G.O.Ms.No.75, P&E, dated 16th April 1996 and amended vide G.O.Ms.No.14, H.P & EVI Department, dated 09.06.2017, the prescribed limit for Indian Made Foreign spirit is 4.5 litres. But, in the impugned S.T.C, the quantity is 8.460 litre. Therefore, the petitioner is having more quantity of prescribed limit. Hence, he prayed for dismissal of this petition.

5. The offence with which the petitioner has been charged is under Section 4(1)(a) of Tamil Nadu Prohibition Act. The petitioner was found in possession of 8.460 litre. It is the more quantity of prescribed limit. Hence, there is specific overt act against the petitioner in the complaint. Therefore, it is not possible for this Court to quash the proceedings as such.



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6. Accordingly, this Criminal Original Petition is dismissed.

However, the petitioner is given liberty to raise all his contentions, including the contentions raised in this Criminal Original Petition at the time of trial. Consequently, the connected Miscellaneous Petitions are closed.

7. However, the learned Judicial Magistrate, Rajapalayam, is directed to complete the trial in STC.No.223 of 2021 as expeditiously as possible.

25.04.2024

NCC : Yes/No

Internet: Yes

Index: Yes/No

dss

To

1. The Judicial Magistrate,
Rajapalayam.
2. The Inspector of Police,
PWE Srivilliputhur,
Virudhunagar District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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A.A.NAKKIRAN, J.,

dss

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