



Crl.O.P.(MD) No.16038 of 2021

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.02.2024

CORAM

**THE HON'BLE MRS.JUSTICE R.HEMALATHA**

**Crl.O.P.(MD) No.16038 of 2021**

and

**Crl.M.P.(MD) Nos.8603 & 8604 of 2021**

Ammasikani

... Petitioner

Vs.

1.State through

The Inspector of Police,  
PWE Srivilliputhur Police Station,  
Virudhunagar District.  
(Crime No.396/2020)

2.Sakthivel

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

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, 1973, to call for the records pertaining to the charge sheet in S.T.C.No.1389 of 2020 dated 29.09.2020, on the file of Judicial Magistrate Court, Rajapalayam and quash the same as illegal.

For Petitioner : Mr.R.Alagumani

For R1 : Mr.M.Sakthi Kumar  
Government Advocate (Crl. Side)



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## **ORDER**

**WEB COPY** Seeking to quash the final report in S.T.C.No.1389 of 2020 on the file of Judicial Magistrate Court, Rajapalayam, the present Criminal Original Petition is filed.

2. The case of the prosecution is that on 16.04.2020, at around 09.00 a.m., when the Sub-Inspector of Police, Prohibition and Enforcement Wing along with his team was on routine rounds near Devadhanam-Sastha Kovil Road, they found the petitioner (accused) in possession of 10 liquor bottles each containing 180 ml. When the police enquired the petitioner (accused), he informed them that he purchased all those bottles for the purpose of selling for a higher rate. The petitioner (accused) was immediately arrested and a Seizure Mahazar was also prepared in the presence of Head Constables Mr.Lakshminarayanan and Mr.Immanuvel. On the same day, F.I.R. in Crime No.396 of 2020 was registered against the petitioner (accused) for the offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act. After concluding investigation, the police laid a final report against the present petitioner (accused) before the Judicial Magistrate Court, Rajapalayam in S.T.C.No.1389 of 2020 for the aforesaid offence.



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WEB COPY

3. Mr.R.Alagumani, learned counsel for the petitioner would contend that as per G.O.Ms.No.75, P & E, dated 16.04.1996, a person can be in possession of 4.5 litres and that in the instant case, the petitioner (accused) was in possession of 1.800 litres (10 bottles x 180 ml) and therefore, he cannot be charged for the offence punishable under Section 4(1)(a) of the Tamil Nadu Prohibition Act.

4. Per contra, Mr.M.Sakthi Kumar, learned Government Advocate (Crl. Side) appearing for the first respondent would contend that the petitioner informed the police that he purchased the liquor bottles only for sale and not for his personal use.

5. A perusal of the final report shows that no independent witness was examined. All witnesses are police officials. Moreover, anybody can purchase liquor bottles from a shop directly and as far as the 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. It is not also the case of the prosecution that all the TASMALC shops were ordered to be closed



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for a particular reason on the date of occurrence. Moreover, the petitioner was found in possession of 1.800 litres of Indian made Foreign Spirit and he would come under the exempted category of G.O.Ms.No.75, P & E, dated 16.04.1996. In view of the above reasons, the final report in S.T.C.No.1389 of 2020 on the file of Judicial Magistrate Court, Rajapalayam is quashed.

6. Accordingly, the present Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petitions are closed.

16.02.2024

Index: Yes/ No  
Neutral Citation: Yes / No  
Speaking Order / Non-Speaking Order

JEN

To

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



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**R.HEMALATHA, J.**

JEN

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