



Crl.O.P.(MD)No.14275 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.14275 of 2024
and
Crl.M.P.(MD)No.8903 of 2024

Periya Chokkanathan

... Petitioner

Vs.

State through by
The Inspector of Police,
S.S.Kottai Police Station,
Sivagangai District.
(Crime No.33 of 2024)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records pertaining to the impugned F.I.R. in Crime No.33 of 2024, on the file of the respondent Police and quash the same.

For Petitioner : Mr.P.Bhagavath Srinath

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate
(Criminal Side)



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ORDER

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The petitioner (A1) filed this quash application seeking to quash the F.I.R. in Crime No.33 of 2024, for the offences under Sections 4(1) (a) and 4(1)(k) of the Tamil Nadu Prohibition Act.

2. The case against the petitioner is that on 27.03.2024, the Sub-Inspector of Police, along with his team, was patrolling near Vallikon Oorani (Pond) when they noticed some individuals attempting to flee on seeing the Police party. The petitioner was apprehended and, on examination, 180 ml of Voriyan Brandy (14 bottles) and 180 ml of MGM Gold Usop Brandy (1 bottle) were found in his two-wheeler. As a result, the petitioner was arrested, and the liquor bottles, along with the two-wheeler, were seized and produced as case properties in this matter.

3. The learned counsel for the petitioner contended that the petitioner, along with his friends, was consuming liquor in a secluded area when the Police questioned and allegedly abused him. The petitioner responded, and as a result, he was singled out and arrested, with a case being projected against him, falsely claiming he was carrying 15 bottles



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of liquor (180 ml each). The learned counsel for the petitioner submitted that the petitioner had no involvement with the seized bottles attributed to him. He further submitted that, even if the respondent's contentions were accepted as true, no offence is made out. According to the Tamil Nadu Liquor (Possession for Personal Consumption) Rules, 1996, an individual is permitted to possess up to 4.5 liters of Indian Made Foreign Spirits, 4.5 liters of imported foreign liquor, 7.8 liters of beer, and 9 liters of wine. The seized liquor, therefore, is well within the legal possession limit. In light of this, the petitioner prayed for the quashing of the F.I.R.

4. Further, in support of his contention, the petitioner has relied on the order passed by this Court in **Crl.O.P.No.13819 of 2024**, dated **03.07.2024**, [**Praveen Kumar vs. State, Rep. by the Inspector of Police, Pennagaram Police Station, Dharmapuri and another**], wherein the F.I.R. was quashed on the same grounds.

5. The learned Government Advocate (Criminal side) for the respondent submitted that the petitioner's claim of personal consumption cannot be accepted, as 15 bottles of 180 ml each were seized. It is highly



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unlikely that any individual would carry such a large quantity of bottles for personal consumption. Furthermore, all the bottles were found concealed in the petitioner's two-wheeler, which proves that the petitioner was illegally transporting the liquor for other purposes.

6. The learned Government Advocate (Criminal Side) further submitted that the petitioner, along with the two-wheeler and liquor bottles, was apprehended at the scene of occurrence, and the items were subsequently produced before the Magistrate. It is not a case where the petitioner has been falsely implicated for any other reason. The learned Government Advocate (Criminal Side) also fairly submitted that, as per G.O.Ms.No.14, Home, Prohibition and Excise (VI) Department, dated 09.06.2017, an individual is entitled to possess 4.5 litres of Indian Made Foreign Spirits, 4.5 litres of imported foreign liquor, 7.8 litres of beer, and 9 litres of wine.

7. Considering the submissions and on perusal of the materials, it is seen that the petitioner's possession is within permissible limit as per G.O.Ms.No.14, Home, Prohibition and Excise (VI) Department, dated



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09.06.2017. In view of the same, this Court finds that continuation of prosecution against the petitioner is not permissible. Hence, the proceedings against the petitioner in Crime No.33 of 2024, on the file of the respondent Police, stands quashed.

8. Accordingly, this Criminal Original Petition is allowed. Consequently, connected Miscellaneous Petition is closed.

07.11.2024

NCC : Yes / No
Index : Yes / No
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To

- 1.The Inspector of Police,
S.S.Kottai Police Station,
Sivagangai District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.NIRMAL KUMAR, J.

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Order made in
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