



Crl.O.P.(MD)No.18668 of 2021

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.12.2024

CORAM:

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P.(MD)No.18668 of 2021

and

Crl.M.P.(MD)No.10328 of 2021

1.Nanthakumar

2.Ramanujam

3.Ganeshkumar

4.Murugan

5.Sundarraaj @ Sundarajan

... Petitioner/A1 to A5

VS.

1.The State of Tamil Nadu
Represented by its
Inspector of Police,
Amathur Police Station,
Virudhunagar District
(Crime No.247 of 2018)

... 1st respondent/Complainant

2.Hariharan

... 2nd Respondent/De-facto
Complainant



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Prayer : Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records relating to the proceedings in S.T.C.No.1413 of 2019 on the file of the Judicial Magistrate No.II, Virudhunagar and quash the same.

For Petitioners : Mr.G.Karuppasamy Pandian
for Mr.P.Senguttuarasan

For R1 : Mr.A.Albert James
Government Advocate (Criminal Side)

R2 : Unserved

ORDER

This Criminal Original Petition has been filed to quash the proceedings pending in S.T.C.No.1413 of 2019 on the file of the learned Judicial Magistrate No.II, Virudhunagar.

2. The complaint was lodged before the 1st respondent to the effect that during a routine check, the petitioners were found playing cards inside a lodge and they were involved in gambling. An amount of Rs.1,85,430/- (Rupees One Lakh Eighty Five Thousand Four Hundred and Thirty only) was seized along with the cards that were used for playing rummy.

3. Heard the learned counsel for the petitioners and the learned Government Advocate (Criminal Side) for the 1st respondent.



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4. The charge sheet has been filed against the petitioners for the offence under Sections 8 and 9 of the Tamil Nadu Gaming Act, 1930. This charge sheet is liable to be interfered on the simple ground that a Rubber Stamp Cognizance has been taken by the Court below on 29.03.2019. However, this Court is not inclined to send back this case once again, since, even on the admitted facts, the offence is not made out.

5. As per the admitted case of the prosecution, the petitioners were playing cards inside a lodge. This place cannot be termed as a common gaming-house, which is a prerequisite for proceeding further with the prosecution against the petitioners. The law and this issue is now too well settled. Useful reference can be made to the judgement of this Court in ***D.Siluvai Venance vs. State Rep. by the Inspector of Police, Koodankulam Police Station, Tirunelveli [(2020) 3 MLJ (Crl) 710]***.

6. This Court also had an occasion to deal with the same issue in Crl.O.P.(MD)No.12445 of 2020, and while passing an order on 11.09.2023, this Court took into consideration the earlier judgments of this Court and came to the conclusion that in order to attract the offence, it has



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to be played in a public place or in a common gaming-house. In the absence of the same, the charge itself is unsustainable.

7. In the light of the above discussion, the proceedings in S.T.C.No. 1413 of 2019 on the file of the learned Judicial Magistrate No.II, Virudhunagar is hereby quashed.

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

02.12.2024

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



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WEB COPY To

- 1.The Judicial Magistrate No.II,
Virudhunagar
- 2.The Inspector of Police,
Amathur Police Station,
Virudhunagar District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai



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N. ANAND VENKATESH, J.

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