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Crl.O.P.(MD)No.18628 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **13.03.2024**

CORAM:

THE HONOURABLE MR.JUSTICE **M.DHANDAPANI**

Crl.O.P.(MD) No.18628 of 2022

and

Crl.M.P.(MD).No.12536 of 2022

Rajangam

... Petitioner

Vs.

The State through
the Sub-Inspector of Police,
Vickiramangalam Police Station,
Madurai District.
(In Crime No.103 of 2021)

...Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records of the case in S.T.C.No.367 of 2022 on the file of the learned Judicial Magistrate No.II, Usilampatti and quash the same as illegal.

For petitioner

: Mr.Prabhakaran
for Mr.J.Selvam

For Respondent

: Mr.B.Nambiselvan,
Additional Government Pleader



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ORDER

This petition has been filed seeking to quash the proceedings in S.T.C.No.367 of 2022 on the file of the learned Judicial Magistrate No.II, Usilampatti against the petitioner.

2. The case of the prosecution is that when the respondent Police was on patrol duty, at that time, the petitioner herein is in illegal possession of 250 Gms of Ganja. Hence, the respondent registered a complaint against the petitioner in Crime No.103 of 2021 for the alleged offence punishable under Sections 8(c) r/w 20(b)(ii) (A) of the NDPS Act and the respondent Police conducted the investigation. After completing the investigation, the respondent Police filed a final report before the learned Judicial Magistrate No.II, Usilampatti and the same was taken on file in S.T.C.No.367 of 2022.

3. The learned counsel appearing for the petitioner would submit that a false case has been foisted against the petitioner and there is no specific allegation as against the petitioner.



4. The learned Additional Public Prosecutor appearing for the respondent Police would submit that all those points raised before this Court is a triable issue, which cannot be canvassed before this Court and it can be canvassed only at the time of trial.

5. In the above circumstances, the trial court has rightly taken the case on file and this Court is of the considered view that no prejudice would be caused to the petitioner, if he is subjected to due trial as sufficient opportunity would be given to the petitioner to put forth his defence. The petitioner cannot be let by quashing the charges framed against him as that would completely undermine the alleged act, which is the subject matter of criminal trial pending against him. Useful reference in this regard can be made to the decision of the Hon'ble Apex Court in ***State of Haryana – Vs - Bhajan Lal (1992 SCC (Crl.) 426)***

6. For the reasons aforesaid, this Court finds no ground or scope to quash S.T.C.No.367 of 2022, pending on the file of the learned Judicial Magistrate No.II, Usilampatti. Accordingly, this Criminal Original Petition is dismissed. Consequently, connected miscellaneous petition is closed.



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7. At this juncture, the learned counsel appearing for the petitioner would submit that this Court may consider to dispense with the personal appearance of the petitioner before the court below. Taking into consideration the request as made by the learned counsel for the petitioner, the appearance of the petitioner before the trial court is dispensed with except for his appearance for the purpose of receiving the copy of the proceedings u/s 207 Cr.P.C., framing of charges, questioning under Section 313 Cr.P.C. and on the day on which judgment is to be pronounced. However, if for any particular reason, the presence of the petitioner is necessary, the trial court, at its wisdom, shall direct his appearance on those days.

13.03.2024

Index : Yes/No

Internet : Yes/No

TSG

To

1.The Judicial Magistrate No.II, Usilampatti.

2.The Sub-Inspector of Police,
Vickiramangalam Police Station,
Madurai District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



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M.DHANDAPANI. J.

TSG

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