



CrI.O.P.(MD)No.19463 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 16.04.2024

CORAM:

THE HONOURABLE MR.JUSTICE A.A.NAKKIRAN

CrI.O.P.(MD) No.19463 of 2022
and
CrI.MP(MD)Nos.13238 & 13240 of 2022

Abijith Mathew

... Petitioner / 1st Accused

Vs.

1.The Sub Inspector of Police,
Karungal Police Station,
Kanniyakumari District,
(Crime No.237 of 2021)

... 1st Respondent / Complainant

2.Harikumaran Nair,
Sub Inspector of Police,
Karungal Police Station,
Kanniyakumari District.

... 2nd Respondent / Defacto
Complainant

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C, to call for the records in S.T.C.No.605 of 2021 pending on the file of the learned Judicial Magistrate, Eraniel and quash the same in respect of the petitioner herein.

For petitioner

: Mr.K.P.Narayanakumar

For R1

: Mr.R.M.Ambunithi,
Additional Public Prosecutor



ORDER

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This petition has been filed to quash the proceedings in S.T.C.No. 605 of 2021 pending on the file of the learned Judicial Magistrate, Eraniel.

2. The final report has been filed against the petitioner for an alleged offence under section 4(1)(g) of Tamil Nadu Prohibition Act.

3.The learned counsel for the petitioner would submit that in this case both the complainant as well as the investigating officer are the same.

4.It can be seen from records that the First Information Report was registered by the second respondent and he is conducting the investigation and he has also filed the final report. Therefore the very same investigation in this case is vitiated. This case is squarely covered by the judgment of the Honourable Supreme Court in ***Mohan Lal- vs- The State of Punjab in Criminal Appeal No.1880 of 2011***, wherein the Honourable Supreme Court has categorically held that the foundation of the fair trial postulates that the informant and the investigator must not be the same person.



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5. In view of the above the final report filed by the respondent police in STC No.605 of 2021 pending on the file of the learned Judicial Magistrate, Eraniel is hereby quashed and the Criminal Original Petition is allowed. Consequently connected miscellaneous petitions are closed.

16.04.2024

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
dss

To

- 1.The Judicial Magistrate,
Eraniel.
- 2.The Sub Inspector of Police,
Karungal Police Station,
Kanniyakumari 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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