



Crl.O.P.(MD)No.20310 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 22.11.2024

CORAM

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.20310 of 2024

and

Crl.M.P.(MD)Nos.12555 & 12556 of 2024

Abdul Majeeth

... Petitioner

Vs.

State of Tamil Nadu, Rep. by
The Sub-Inspector of Police,
PEW-Sattur Police Station,
Virudhunagar District.
(Crime No.584 of 2022)

... Respondent

PRAYER : Criminal Original Petition filed under Section 528 of the Bharatiya Nagarik Suraksha Sanhita, 2023, praying to call for the records of the impugned charge sheet in C.C.No.165 of 2024, on the file of the Judicial Magistrate Court, Aruppukottai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.S.Selva Aditya

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



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ORDER

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The petitioner, A2, has filed this quash application seeking to quash the proceedings in C.C.No.165 of 2024, on the file of the Judicial Magistrate Court, Aruppukottai.

2. The case against the petitioner is that on 25.05.2022, at about 06:15 a.m., the respondent Police, along with TASMAL officials, conducted an inspection. During the inspection, they found a bar operating near TASMAL No.11809 selling liquor before the permitted time of 12:00 p.m. and that one Rasi Kapoor was selling the liquor. On enquiry, the said Rasi Kapoor informed it is the petitioner, who instructed him to sell the liquor at 06:00 a.m. Hence, F.I.R. registered, and subsequently, charge sheet filed.

3. The learned counsel for the petitioner submitted that Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937, is not applicable to the petitioner. The petitioner working in Kuwait as a domestic driver and he came down to India due to Covid-19 Pandemic and was working as an acting driver at Aruppukottai. He is neither the licence holder of the bar



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nor is there any presence of poisonous or intoxicating substances in the liquor seized, which could have caused harm or posed a threat to the consumers. It is also admitted that the petitioner was standing in the said locality along with his friends and nothing more, but his name was included in the said case. The first accused, who was present in the scene of occurrence, is said to have disclosed the petitioner's name as the owner of the bar. Further, now, the first accused is no longer alive, and consequently, the statement made by the first accused becomes inaccurate and there are no other materials to proceed against the petitioner.

4. The learned Government Advocate (Criminal side) contended that the first accused, who was present at the scene of occurrence, disclosed the name of the petitioner as the owner of the bar. His identification confirmed by the first accused, who is now dead, but the other facts can still be considered as part of the evidence, especially in light of the circumstances and the conduct of the petitioner. The learned Government Advocate (Criminal Side) further submits that the petitioner's involvement in running the bar can still be inferred from the



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act of the first accused and the operation of the bar before the permitted time. The learned Government Advocate (Criminal Side) also contends that the allegations regarding the sale of liquor before the authorized time have been substantiated and proven to be true.

5. Considering the submissions made by the learned counsel for the petitioner and the learned Government Advocate (Criminal side), this Court finds that there is merit in the petitioner's contention. Firstly, it is seen that Section 4(1)(a) of the Tamil Nadu Prohibition Act pertains to the illegal sale of liquor, but there is no evidence to show that the petitioner was directly involved in the sale of liquor on the date of the incident. It was the first accused, who was present at the scene of occurrence, allegedly named the petitioner as the owner of the bar. However, the statement made by the first accused, who is now dead, becomes inadmissible as evidence under the law, as it cannot be relied.

6. Further, there is no material evidence to show that the petitioner engaged in any unlawful activity related to the operation of the bar on the date in question. There is nothing to show that the petitioner committed



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any criminal act under the relevant provisions of the Tamil Nadu Prohibition Act.

7. In view of the absence of tangible materials against the petitioner and considering the circumstances of the case, this Court is of the view that no further proceedings can be proceeded against the petitioner. Hence, the proceedings in C.C.No.165 of 2024, on the file of the Judicial Magistrate Court, Aruppukottai, pending against the petitioner, shall stand quashed.

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

NCC : Yes / No

22.11.2024

Index : Yes / No

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Note:- Issue order copy on 25.11.2024.

To

1.The Judicial Magistrate,
Aruppukottai.



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2.The Sub-Inspector of Police,
PEW-Sattur Police Station,
Virudhunagar District.

3.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
Crl.O.P.(MD)No.20310 of 2024

Dated: 22.11.2024