



W.P.Crl.No.560 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2025

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CORAM:

THE HON'BLE MR.JUSTICE N. SATHISH KUMAR

W.P.Crl.No.560 of 2025
and W.P.M.P.Crl.No.268 & 269 of 2025

M/s.Vinny Foods,
Represented by its Proprietor, Jay Shah,
16/1, Wallace garden 2nd Street,
Thousand Lights West,
Nungambakkam, Chennai – 600 006. ... Petitioner
Vs.

1. The Commissioner of Police,
No.132, EVK Sampath Road,
Vepery, Chennai – 600 007.
2. The Assistant Commissioner of Police,
Greaves Road, Nungambakkam,
Thousand Lights, Chennai – 600 006.
3. The Inspector of Police,
F4, Police Station,
No.129, Greaves Road,
Thousand Lights, Chennai – 600 006. ... Respondents

PRAYER : Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Mandamus, to forbear the respondents and their subordinate officers from interfering with the conduct of the petitioner's business carried on in the name and style of “Kafe Trove” having restaurant with separate smoking area for serving herbal flavour hookah without any content or trace of Tobacco/Nicotine.



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For Petitioner : Mr.Pramod Kumar Chopda, Senior Counsel
for Mr.K.K.Arjun
For Respondents : Mr.K.M.D.Muhilan
Additional Public Prosecutor

ORDER

The Writ Petition (Criminal) has been filed seeking a direction to the respondents not to interfere with the petitioner's business carried on in the name and style of “Kafe Trove”.

2. The petitioner is running a restaurant under the name and style of “Kafe Trove” after obtaining required licenses. It is further stated that a separate earmarked smoking area has been provided for serving herbal flavour hookah without any content or trace of Tobacco or Nicotine. According to the petitioner, the respondents have been frequently interfering with the petitioner's business and have also directing to close the restaurant contending that the petitioner is selling tobacco products. Hence, the present petition has been filed.

3. Learned counsel appearing for the petitioner submitted that the petitioner has filed an Affidavit of Undertaking stating that no tobacco or nicotine products are used within the premises.



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WEB COPY 4. Learned Additional Public Prosecutor appearing for the respondents filed a Counter Affidavit.

5. In the counter statement, it is specifically denied the fact that the respondents had forcefully closed the petitioner's restaurant. It is further contended that the respondent Police have not caused any disturbance to the petitioner's business. However, since the respondents have liberty to conduct surprise inspections, a search was conducted on 12.05.2025 in the petitioner's premises, during which, several tobacco products were seized including Royal Smoking Brand (Tobacco), AL Ayaan Brand (Tobacco), Royal Smoking Sheesa Molasses Black Colour and etc.. It is further contended that the petitioner is habitually indulging in such illegal activities.

6. In view of the above, though the learned counsel appearing for the petitioner submitted that the petitioner is not using any tobacco or nicotine products in the earmarked smoking area for serving herbal flavor hookah, the fact remains that several cases have been registered against the petitioner. Whether the so-called herbal products, as claimed by the



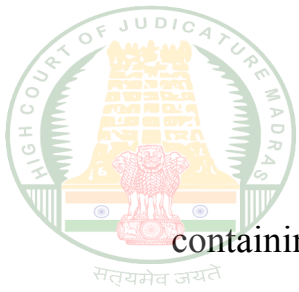
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petitioner, contain nicotine or not, can only be determined by experts and not by this Court. This Court cannot proceed merely on the basis of oral submissions.

7. It is the consistent stand of the respondents that they are not disturbing the petitioner in running the restaurant. If the petitioner is of the view that his products do not contain any tobacco or nicotine, it is for the petitioner to satisfy the competent Authorities particularly Food Safety and Standards Authority of India (FSSAI).

8. In this regard, by way of amendment brought by the State Government under L.A.Bill No.57 of 2022, Section 4A was introduced, which prohibits hookah bars. Therefore, whether the petitioner's hookah contains tobacco or not is an issue that has to be determined by the competent authority.

9. On considering the provisions of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 and Food Safety and Standards Act, if the product used in the hookah is tobacco



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containing nicotine, it will fall under the COTPA Act. Otherwise also the inhalation of a smoke derived from any product other than tobacco containing nicotine, it will fall within the definition of food under Section 2(z) of the Food Safety and Standards Act. Therefore, if at all the petitioner herein wants to run an enclosed zone for herbal hookah, first of all, he has to satisfy that his trade is not in a public place which includes restaurant and does not fall under the prohibition of Cigarettes and Other Tobacco Products Act.

10. He cannot use tobacco or any product containing nicotine, in view of the prohibition under Section 4(A) of the COTPA Act, and in case if we want to use any other product other than product containing nicotine and claims it to be a herbal product, it must be in satisfaction with the provisions of Food Safety and Standards Act, 2006.

11. Accordingly, the petitioner is directed to approach FSSAI Authorities and place before them all the ingredients used in the preparation of hookah in his premises. The Food Safety Officer may draw samples and send them to a laboratory for testing. If it is satisfied that the products do not contain any tobacco or nicotine, the petitioner is at liberty to continue his business in respect of running of the hookah bar.



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WEB COPY 12. Insofar as the running of the restaurant is concerned, the respondent shall not interfere with the petitioner's business. However, it is made clear that the respondents Police are at liberty to take action if any illegal activities are found to be carried on in the petitioner's premises.

13. Accordingly, this Writ Petition (Criminal) stands disposed of with the aforesaid direction. No costs. Consequently, connected miscellaneous petitions are closed.

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Neutral Citation: Yes/No



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N. SATHISH KUMAR, J.

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