



CRL OP No.24407 of 2025



IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 08.09.2025

CORAM

THE HONOURABLE MR JUSTICE N. SATHISH KUMAR

CRL OP No. 24407 of 2025

Mr. S.Suganraj
Proprietor,
LV-1 Cafe, No.185/2,
Rajiv Gandhi Salai OMR.
Egaattur, Kancheepuram 603 103

Petitioner

Vs

1. The Assistant Commissioner of Police ,
Kelambakkam Range,
East Coast Road,
Kanathur, Chennai 603 112

2.The Inspector of Police,
E-8 Kelambakkam Police Station,
Kelambakkam 603 103

Respondent(s)



PRAYER : Criminal Original Petitions filed under section 528 of BNSS to direct the respondents not to harass the petitioner and their staff in relation to the running of Herbal Hookah Services (without any content or trace of Tobacco and Nicotine) in the Restaurant premises namely “LV-1 Cafe” at No.185/2 Rajiv Gandhi Salai OMR, Egaattur, Kancheepuram 603 103.

For Petitioner(s): Mr.S.Shanmitha

For Respondent(s): Mr.R.Vinothraja,
Govt. Advocate (crl.side)

ORDER

This Criminal Original Petition has been filed to direct the respondents not to harass the petitioner and their staff in relation to the running of Herbals Hookah Services (without any content or trace of Tobacco and Nicotine) in the Restaurant premises namely “LV-1 Cafe” at No.185/2 Rajiv Gandhi Salai OMR, Egaattur, Kancheepuram 603 103.

2. The petitioner is running a restaurant under the name and style of Mist Cafe and Restaurant and “LV-1 Cafe' after obtaining required licenses. It is further stated that a separate earmarked smoking area has been provided for



WEB COPY

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 petitioners' 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. The 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.

4. The learned Additional Public Prosecutor appearing for the respondents 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, when search was conducted 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.

WEB COPY

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 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 petitioners in running their restaurant. If the petitioners are 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 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(za) of the Food Safety and Standards Act. Therefore, if at all the petitioner herein want to run an enclosed zone for herbal hookah, first of all, they have to satisfy that their 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. The petitioner cannot use tobacco or any product containing



WEB COPY

nicotine, in view of the prohibition under Section 4(A) of the COTPA Act, and in case if they 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 their 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 their business in respect of running of the hookah bar.

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.



WEB COPY

13. Accordingly, this Criminal Original Petition stands disposed of with the aforesaid direction. No costs.

08.09.2025

Index: Yes/No

Speaking/Non-speaking order

Internet: Yes

Neutral Citation: Yes/No

mrp

To

1. The Assistant Commissioner of Police ,
Kelambakkam Range,
East Coast Road,
Kanathur, Chennai 603 112

2. The Inspector of Police,
E-8 Kelambakkam Police Station,
Kelambakkam 603 103



WEB COPY

CRL OP No.24407 of 2025



N.SATHISH KUMAR J.

mrp

CRL OP No.24407 of 2025

08.09.2025