



Crl.OP.No.30225 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.11.2025

CORAM:

THE HON'BLE MR.JUSTICE **A.D.JAGADISH CHANDIRA**

Crl.OP.No.30225 of 2025

M/s. Chillum Cafe,
Rep. by its Proprietor P.Sibi,
9/3G, Nerhu Nagar East, Kalapatti Road,
Aerodrom Post, Coimbatore – 14.

...Petitioner

Vs.

1. The Commissioner of Police,
Coimbatore City Police Office Campus,
Near Hosur Road, Gopalapuram,
Coimbatore.
2. The Inspector of Police,
Peelamedu Police Station,
Coimbatore.

...Respondents

Criminal Original Petition filed under Section 528 of BNSS, 2023 to direct the respondents not to harass the petitioner and his staff in relation to the running of his restaurant serving “Herbal Hookah” to the customers (without any content of traces of Tobacco and Nicotine) at 'Chillum Cafe', 9/3G, Nerhu Nagar East, Kalapatti Road, Aerodrom Post, Coimbatore – 641 014.



Crl.OP.No.30225 of 2025

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For Petitioner : Mr.T.Venugopal

For Respondents : Mr.R.Vinothraja, Govt. Advocate (Crl. Side)

ORDER

This criminal original petition has been filed seeking to direct the respondents not to harass the petitioner and its staff in relation to serving “Herbal Hookah” to the customers.

2. The case of the petitioner is that the petitioner restaurant is functioning at 9/3G, Nerhu Nagar East, Kalapatti Road, Aerodrom Post, Coimbatore – 641 014, after obtaining required licenses. It is further stated that the petitioner restaurant also provides supply of Herbal Hookah to its customers, which is free from tobacco or any other banned substances like Nicotine and it is not supplying anything that is prohibited under the COTPA Act. While so, the respondent police are repeatedly causing an unrest in the petitioner restaurant under the guise of inspection. Further, on 22.09.2025, the 2nd respondent had come to the petitioner restaurant and seized certain products meant for the herbal hookah and in consequence to



Crl.OP.No.30225 of 2025

the same, an FIR was registered in Crime No.686 of 2025. Aggrieved by the same, a representation has been made before the 1st respondent on 08.10.2025 in this regard. However, till date no action has been taken on the said representation. Hence, the present petition has been filed.

3. Learned counsel for the petitioner submitted that a similar issue has already been considered by this Court in W.P.Crl.No.560 of 2025, wherein, a Co-ordinate Bench of this Court, vide order dated 19.08.2025 directed the petitioner therein to approach the FSSAI Authorities to prove that the products do not contain any tobacco and further directed the respondent police not to interfere with the business of the petitioner therein.

4. Learned Government Advocate (Crl. Side) appearing for the respondents did not dispute the above submission made by the learned counsel for the petitioner.



5. This Court perused the order passed in W.P.Crl.No.560 of 2025, wherein, this Court has held as under :-

“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 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 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.

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.”



Crl.OP.No.30225 of 2025

6. The aforesaid decision is squarely applicable to the facts of the present case. Accordingly, applying the ratio laid down in the above case, this criminal original petition stands **disposed of** with a direction to the petitioner to approach the FSSAI Authorities and place before them all the ingredients used in the preparation of hookah in its premises and 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 its business in respect of running of the hookah bar. Further, the respondent officials shall not interfere with the petitioner business. However, it is made clear that the respondent Police are at liberty to take action, if any illegal activities are found to be carried on in the petitioner's premises.

06.11.2025

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Index	: Yes/No
Speaking order	: Yes/No
NCC	: Yes/No



CrI.OP.No.30225 of 2025

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Coimbatore City Police Office Campus,
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2. The Inspector of Police,
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Coimbatore.
3. The Public Prosecutor,
Madras High Court.



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Crl.OP.No.30225 of 2025

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Crl.OP.No.30225 of 2025

06.11.2025