



Crl.O.P.(MD)No.2180 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 13.02.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.2180 of 2025

and

Crl.M.P(MD) No.1519 of 2025

Rajkumar @ Raja

.. Petitioner

Vs.

1. The Inspector of Police
Thalamuthur nagar Police Station
Thoothukudi District

2. Muthiah
Sub Inspector of Police
Thalamuthunagar Police Station
Thoothukudi District

.. Respondents

PRAYER : Criminal Original Petition filed under Section 407 of Cr.P.C., to call for the records relating to the impugned First Information Report in Crime No. 348 of 2022 pending on the file of the first respondent and quash the same in so far as the petitioner concern.

For Petitioner : Mr.S.Vishnuvardhan

For Respondents : Mr.M.Sakthi Kumar
No.1 Government Advocate(Crl.Side)



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ORDER

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This Criminal Original Petition has been filed quash the First Information Report in Crime No. 348 of 2022 pending on the file of the first respondent police.

2. The learned counsel appearing for the petitioner would submit that the first respondent police has registered a case in Crime No. 348 of 2022 for the offences under Sections 4(1)(a), 4(1)(i), 14 of Tamil Nadu Prohibition (Amendment) Act, 2004 and Sections 294(b), 353 and 506(ii) of IPC alleging that on 09.10.2022 at about 11.00 hrs while the second respondent police was on patrol duty A1 and A2 tried to escape from the spot and also threatened the police officials with weapons. On suspicion the respondent police made a search and found them in illegal possession of 10 nos of 180ml brandy Vorion and 10 nos of 180 ml brandy Melene bottles without any valid license and permission. Thereafter based on the confession given by A1 and A2 this petitioner has been arrayed as A3 in this case. Even according to the case of prosecution the A1 and A2 possessed permitted quantity of liquor. As per G.O.(MS) No.14 H.P.EVI Department dated 09.06.2017, the person can carry maximum 4.5 litres for his personal use but in the present case the



accused were found in possession of only 4.3 litres. Therefore they had possession of permissible quantity and further no any material was recovered from the petitioner and only based on the confession given by the co-accused this petitioner has been arrayed as accused, hence the pending First Information Report is liable to be quashed.

3. The learned Government Advocate(Crl.Side) appearing for the respondent police would submit that A1 and A2 had illegally possessed liquor and they also possessed it for illegal sale, hence the respondent police registered a case. As per the confession statement of co-accused this petitioner was implicated as an accused. The case is under investigation and without investigation the petitioner is not entitled to any relief, therefore the petition is liable to be dismissed.

4. Heard both sides and perused the materials available on record.

5. It is admitted fact that initially the First Information Report has been registered as against A1 and A2 for the offences under Sections 4(1)(a), 4(1)(i), 14 of Tamil Nadu Prohibition(Amendment) Act, 2004 and Sections 294(b), 353 and 506(ii) of IPC. Even according to the



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prosecution A1 and A2 had illegally possessed 10 nos of 180ml brandy Vorion and 10 nos of 180 ml brandy Melene bottles. Admittedly no any material was recovered from this petitioner and this petitioner has been implicated as an accused based on the confession given by co-accused. Further as per the Tamil Nadu Liquor(Possession for Personal Consumption) Rules,1996 in G.O.Ms.No.75,P&E, dated 16th April 1996 and amended vide G.O.(MS) No.14 H.P.EVI Department dated 09.06.2017, the prescribed limit for Indian made Foreign spirit is 4.5. Even as per the case of prosecution A1 and A2 were in possession of 4.3 litres of liquor. The learned Government Advocate(Crl.Side) also not disputed the possession of liquor by A1 and A2. A1 and A2 had possessed only 4.3 litres of liquor which is a permissible quantity and this petitioner was not in possession of any liquor. This petitioner was arrayed as an accused based on the confession given by the co-accused Therefore the registration of the First Information Report and including this petitioner as one of the accused is clear abuse of process of law.

6. The learned counsel appearing for the petitioner also relied on the order passed by this Court in the case of ***Periya Chokkanathan.v. The Inspector of Police, SS Kottai Police Station, Sivagangai District in***



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Crl.O.P(MD) No.14275 of 2024 dated 07.11.2024 wherein this Court for similar type of offence has quashed the proceedings based on the G.O. (MS) No.14 H.P.EVI Department dated 09.06.2017, in the instant case also the quantity of liquor is within the prescribed limit as per the above G.O.

7. In view of the same, this Criminal Original Petition stands allowed and the First Information Report in Crime No. 348 of 2022 pending on the file of the first respondent police is hereby quashed as against this petitioner. Consequently connected miscellaneous petition stands closed.

13.02.2025

NCC : Yes/No
Index : Yes / No
Internet : Yes / No
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To

1. The Inspector of Police
Thalamuthur nagar Police Station
Thoothukudi District

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.DHANABAL,J.

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