



Crl.O.P.(MD).No.18632 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **22.01.2025**

CORAM

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

Crl.O.P.(MD).No.18632 of 2022

and

Crl.M.P.(MD). No.12560 of 2022

Palpandi

... Petitioner / Sole Accused

Vs.

The State represented by, its,
The Sub-Inspector of Police,
Vickiramangalam Police Station,
Madurai District.

(Crime No.192 of 2013)

... Respondent / Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records of the case in STC No.366 of 2022 on the file of the learned Judicial Magistrate No.II, Usilampatti and quash the same as illegal.

For Petitioner : Mr.J.Selvam

For Respondent : Mr.S.Ravi,
Additional Public Prosecutor



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ORDER

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This petition has been filed to quash the proceedings pending in STC No.366 of 2022 on the file of the learned Judicial Magistrate No.II, Usilampatti.

2. The case of the prosecution is that based on the secret information, the police team was formed and the petitioner was found in possession of 250 grams of ganja.

3. The investigation was conducted and police report was filed which was taken on file by the learned Judicial Magistrate No.II, Usilampatti in STC.No.366 of 2022. The same has been put to challenge by the petitioner on two grounds. The first ground is that the Court below has taken rubber stamp cognizance without any application of mind. The second ground is that even without an FSL report, the police report has been filed and it has been taken cognizance by the Court below.

4. The learned Additional Public Prosecutor clarified that the FSL report was very much available and by mistake, it was mentioned in the police report as if it is not available.



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5. Heard the learned counsel on either side and perused the materials placed on record.

6. In the considered view of this Court, it is not necessary for this Court to go into the above issue since this Court finds that the Court below has taken rubber stamp cognizance. For proper appreciation, the same is scanned and extracted hereunder:-

12.08.2022
STC 100 NO: 366/2022
Taken on File U/S 8(C), 20(b)(ii)(A) of
Posted to ~~Shanmugam~~ NDPS A
(13.09.2022)
JM - No: II
Usi-ampatti

7. This Court by relying upon the judgment of the Apex Court has repeatedly held that the process of taking cognizance is a judicial process which requires application of mind. A rubber stamp cognizance is no cognizance in the eye of law since what is being done is to put the seal in the complaint and fill-up the gaps. Such rubber stamp cognizance has been frowned upon by this Court. Useful reference can be made to the judgment of this Court in *Shanmugam and others v. Inspector of*



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Police, Ariyalur Police Station, Ariyalur and others, reported in (2019)

3 MLJ (Crl.) 339. The Apex Court also dealt with this issue in ***S.K.Sinha, Chief Enforcement Officer v. Videocon International Ltd & Ors.***, reported in (2008) 1 SCC (Crl.) 471.

8. In view of the above, the rubber stamp cognizance taken by the Court below is hereby set aside. The matter is remitted back to the file of the learned Judicial Magistrate No.II, Usilampatti and the learned Judicial Magistrate shall apply his mind on the allegations made in the complaint and the materials relied upon and pass appropriate orders which must reflect the application of mind. This process shall be complied within a period of four weeks from the date of receipt of a copy of this order.

9. In the result, this Criminal Original Petition is disposed of in the above terms. Consequently, connected miscellaneous petition is closed.

22.01.2025

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

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To

WEB COPY

- 1.The Judicial Magistrate No.II,
Usilampatti.
2. The Sub-Inspector of Police,
Vickiramangalam Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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N.ANAND VENKATESH,J.

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Order made in
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