



Crl.O.P.(MD) No.23073 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.12.2025

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THE HON'BLE MRS.JUSTICE L.VICTORIA GOWRI

Crl.O.P.(MD) No.23073 of 2025

and

Crl.M.P.(MD) Nos.19978 & 19979 of 2025

Deiva Nayagam @ Selva Nayagam

... Petitioner

Vs.

1.The State of Tamil Nadu rep. by
The Inspector of Police,
Puliyarai Police Station,
Tenkasi District.
(Crime No.250 of 2024)

2.Karpaga Raja,
The Sub-Inspector of Police,
Puliyarai Police Station,
Tenkasi District.

... Respondents

Prayer : Criminal Original Petition filed under Section 528 of Bharathiya Nagarik Suraksha Sanhita, 2023 to call for the entire records pertaining to the impugned charge sheet in S.T.C.No.1477 of 2025 on the file of the learned Judicial Magistrate, Sengottai and quash the same insofar as the petitioner is concerned.

For Petitioner : Mr.S.Jeyakarthik



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For R1

: Mr.B.Thanga Aravindh
Government Advocate (Crl. Side)

ORDER

Seeking quashment of the impugned charge sheet in S.T.C. No. 1477 of 2025 on the file of the learned Judicial Magistrate, Sengottai, the present Criminal Original Petition has been filed.

2. Mr.S.Jeyakarthik, the learned counsel for the petitioner, submitted that the petitioner is a B.Tech graduate holding a bar licence, who is entitled to run the bar in terms of the licence conditions. He further submitted that the FIR in Crime No.250 of 2024 dated 01.11.2024 was registered against the petitioner and two others for the offences under Section 4(1)(A) of the Tamil Nadu Prohibition (Amendment) Act, 2024 read with Section 24 of the Tamil Nadu Prohibition Act, 1937, based on the complaint given by the second respondent, who is not an Inspector of Police functioning under the Prohibition Wing but is only the jurisdictional law and order police.

3. The learned counsel further submitted that the petitioner's house is situated about 150 kilometres away from the bar; that he had engaged the first and second accused as employees for the conduct of the bar; that



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the bar was being run strictly in accordance with the licence conditions; that however, according to the prosecution, on 01.11.2024 at about 09.30 a.m., the first and second accused were allegedly selling liquor unlawfully with the permission of the petitioner, pursuant to which the FIR came to be registered on the same day at 11.00 a.m. based on the complaint of the second respondent, who is a law and order police officer.

4. The learned counsel for the petitioner, relying upon the order of this Court in ***L.Kannan v. The Sub Inspector of Police, Ambasamuthiram Police Station and another¹*** pointed out that this Court has time and again held that only an Inspector of Police functioning under the State Prohibition Enforcement Wing is empowered to lodge a complaint for offences under Section 4(1)(A) of the Tamil Nadu Prohibition (Amendment) Act, 2024. But in the instant case, in violation of the said mandate, the complaint was lodged by the jurisdictional law and order police and on that basis, the entire investigation has been initiated. Therefore, the learned counsel prayed for quashment of the impugned charge sheet in S.T.C.No.1477 of 2025 on the file of the learned Judicial Magistrate, Sengottai.

¹ order dated 10.08.2023, made in Crl.O.P.(MD) No.12316 of 2020



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5. Mr.B.Thanga Aravindh, the learned Government Advocate (Criminal Side) appearing for the first respondent, categorically contended that the petitioner and two other accused had violated the licence conditions by running the bar at 9.30 p.m., whereas the permitted timing for the bar is only between 12.00 p.m. and 10.00 p.m.. The second respondent was well within his rights to lodge a complaint pursuant to which appropriate action has been taken against the petitioner and the two other accused for violation of the licence conditions and therefore sought dismissal of this Criminal Original Petition.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and carefully perused the material available on record.

7. To defend the contention of the learned Government Advocate (Criminal Side) appearing for the first respondent that the bar was kept open during the prohibited hours, the learned counsel for the petitioner placed before this Court a copy of the licence availed by him dated 20.12.2023 bearing Reference No.Na.Ka.No.R3/876/2023. A careful perusal of the same would reveal that there is no mandated timing



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prescribed for the functioning of the bar. That apart, the order of this

Court in **L.Kannan**, relied upon by the learned counsel for the petitioner,

is fully applicable to the facts and circumstances of the present case. The

relevant portion of the said order is extracted hereunder:

“8. According to the 2.7 of the said manual the e Additional Director General of Police (Enforcement) is the head of this unit and he is assisted by the Inspector General of Police (Enforcement), a Superintendent of Police, Central Investigation Unit at Chennai and a Superintendent of Police (Enforcement) each at Chennai, Salem and Madurai. As per the Act, 94 Prohibition Enforcement Wing units functioning in the State headed by the Inspectors of Police are declared as police stations for enforcing the Tamil Nadu Prohibition Act, 1937. Further, in the case on hand, the second respondent registered the F.I.R in Crime No.492 of 2017, who is not the enforcing officer under the Act.

9. 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 litres but in the impugned S.T.C the quantity is only 1.260 litres. Therefore the petitioner is only having less quantity of prescribed limit. Further so far as section 4(1)(i) of TNP Act is concerned it relates to selling to liquor and intoxicated drugs but here there is no any material to show that the petitioner was selling the above said liquor and investigating officer only recovered a sum of Rs.150/- from the petitioner. Mere possession of liquor bottles and having money is not sufficient to hold that the petitioner sold the liquor and thereby the charge sheet is liable to be quashed.



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10. The respondent police without having jurisdiction has registered First Information Report and filed final report and even according to the First Information Report and final report no offence is made out and the registration of the First Information Report itself is clear violation of procedure and not in accordance with law, therefore the pending charge sheet in S.T.C. No.48 of 2020 is liable to be quashed.”

8. No doubt, the First Information Report for the offence under Section 4(1)(A) of the Tamil Nadu Prohibition (Amendment) Act, 2024 was registered by the jurisdictional law and order police. As rightly contended by the learned counsel for the petitioner, only the Inspector of Police functioning under the Prohibition Enforcement Wing units of the State is empowered to lodge a complaint under the said provision. Fully fortified by the aforesaid order of this Court, the impugned charge sheet is quashed.

9. Accordingly, this Criminal Original Petition is allowed. Consequently, the connected Miscellaneous Petitions are closed.

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Index : Yes

Neutral Citation : Yes

Internet : Yes



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Copy To:

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- 1.The Judicial Magistrate,
Sengottai.
- 2.The Inspector of Police,
Puliyarai Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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L.VICTORIA GOWRI, J.

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