



Crl.O.P.(MD)No.22635 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.02.2025

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THE HON'BLE MR.JUSTICE P.DHANABAL

Crl.O.P.(MD)No.22635 of 2024

and

Crl.M.P(MD) No.14139 of 2024

Sivasankar

.. Petitioner

Vs.

1. The Inspector of Police
Airport Police Station
Trichy City

2.Periyasamy
Inspector of Police(Incharge)
Airport Police Station
Trichy

.. Respondents

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, to call for the records pertaining to the First Information Report in Crime No.414 of 2020 on the file of the first respondent and quash the same as illegal so far as the petitioner is concerned.

For Petitioner : Mr.A.Azhageson

For Respondents : Mr.M.Sakthi Kumar
Government Advocate(Crl.Side)



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ORDER

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This Criminal Original Petition has been filed to quash the First Information Report in Crime No.414 of 2020 on the file of the first respondent police.

2. The case of the prosecution is that on 27.09.2020 when the second respondent was in patrol duty they found the petitioner along with other accused playing cards with stake during the pandemic period near wireless road, RR residency. On seeing police, the petitioner along with his friends tried to escape from the occurrence place. But they were caught by the police and they seized the money and cards and thereafter, FIR has been registered in Crime No.414 of 2020 for the offence under Section 12 of Tamil Nadu Gaming Act.

3.No counter was filed on the side of the respondents.

4.The learned counsel appearing for the petitioner would contend that the petitioner is innocent and he has not committed any offence Section 12 of Tamil Nadu Gaming Act. A false case has been foisted against the petitioner. As per Section 12 of Tamil nadu Gaming Act, the



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occurrence has to be taken place in the public place. In the case on hand, there is no specific mention about public place. Only vague allegation that behind wireless road, RR residency, the occurrence was taken place. Therefore, the offence under Section 12 of Tamil Nadu Gaming Act would not attract. Thereby, the First Information Report is liable to be quashed.

5.The learned counsel appearing for the petitioner relied on the order passed by this Court in ***Crl.O.P(MD) No.12445 of 2020*** in the case of ***Chandrasekar and others .vs. The Sub Inspector of Police, Thirumangalam Town Poilce Station, Madurai District and others.***

6.The learned Government Advocate(Crl.Side) appearing for the first respondent would contend that on the date of occurrence, all the accused persons played cards with money (வெட்டு ஆட்டம்). Thereby, the respondent police who were on patrol, arrested the accused persons and seized money of Rs.500/~ and cards and thereafter, registered First Information Report and no any valid ground to quash the First Information Report.



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7.This Court heard both sides and perused the materials available on records.

8. The main contention raised by the petitioner is that the place of occurrence has not been specifically mentioned by the respondent police and vaguely stated that behind wireless road, RR residency. In order to attract provision under Section 12 of Tamil Nadu Gaming Act, game has to be in public place or public street. In this case, the allegation is that behind wireless road, RR residency, there is no specific place mentioned by the respondents.

9.The learned counsel appearing for the petitioner relied upon the judgment of this Court in Saminathan and others v. The Inspector of Police in Crl.O.P.No.6366 of 2021, wherein this Court in para no.6 held as follows:-

“6.This Court finds that there is no material in the impugned final report to show that the place where the petitioners are alleged to have indulged in gaming with cards is a public place. There is only a vague reference stating that it was in front of the cosmopolitan club. One



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cannot infer that it is a public place from such an allegation. Hence, the necessary ingredient to constitute the offence under Section 12 of the Tamil Nadu Gaming Act, 1930 that gaming has to be in a public street or a public place is not satisfied in the instant case. Hence, this Court is inclined to quash the final report. That apart, it is seen that the petitioners who are senior citizens, are the members of the cosmopolitan club and there was no necessity for them to play outside the club. Hence, this Court is inclined to quash the final report.

10. On careful reading of the aforesaid judgment, it is clear that to attract the Section 12 of Tamil Nadu Gaming Act, game has to be played in public place or public street otherwise Section 12 of Tamil Nadu Gaming Act would not attract. In this case, the place of occurrence mentioned as behind the wireless road, RR residency and no mention about the public place. The vague reference by stating behind wireless road, RR residency is not sufficient to attract the provision under Section 12 of Tamil Nadu Gaming Act, since there is no public place or public street.



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11. In view of the aforesaid judgment and considering that there is no specific mention by the respondents about the public place to attract the provision under Section 12 of the Gaming Act, the pending First Information Report in Crime No.414 of 2020 on the file of the first respondent is liable to be quashed.

12. Accordingly this Criminal Original Petition is allowed and the First Information Report in Crime No.414 of 2020 on the file of the first respondent is hereby quashed as against this petitioner. Consequently, connected miscellaneous petition is closed.

20.02.2025

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

1. The Inspector of Police
Airport Police Station
Trichy City

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



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P.DHANABAL,J.

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