



CrI.O.P.No.541 of 2026

IN THE HIGH COURT OF JUDICATURE AT MADRAS

**DATED: 20.01.2026**

CORAM:

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

**CrI.O.P.No.541 of 2026**

M/s.Shanmuga Recreation Club,  
Represented by its Secretary,  
M.V.Dharmesh,  
Thaper House, Old No.8/1 & 8/2,  
New No.43844, Montieth Road,  
Egmore, Chennai – 600 008.

... Petitioner

Vs.

1. The Assistant Commissioner of Police (Egmore Range),  
Chennai – 600 008.

2. The Inspector of Police,  
F-2 Egmore Police Station,  
Chennai 600 008.

... Respondents

**PRAYER:** Criminal Original Petition is filed under Section 528 of Bharatiya Nagarik Suraksha Sanhita/Section 482 of Cr.P.C., to direct the respondents not to harass petitioner and their staff in relation to the running of their restaurant-cum-bar namely “Tap Room” along with herbal hookah services (without any content or trace of tobacco or nicotine) at Thaper House, Old No.8/1 & 8/2, New No.43844, Montieth Road, Egmore, Chennai – 600 008.

For Petitioner : Ms.Shanmitha.S

For Respondents : Mr.S.Santhosh

Government Advocate (Criminal Side)



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## **ORDER**

The present Criminal Original Petition has been filed seeking a direction to the respondents not to harass the petitioner and its staff and not to interfere with the functioning of the petitioner's restaurant-cum-bar in the name and style of "Tap Room".

2. The case of the petitioner is that the petitioner's society is engaged in the business of running a restaurant and bar under the name and style of "Tap Room" at Thaper House, Old No.8/1 & 8/2, New No.43844, Montieth Road, Egmore, Chennai – 600 008, after obtaining the required licenses from the competent authorities. In compliance with the guidelines laid down under the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, a designated smoking zone has been provided for serving herbal hookah without any content or trace of Tobacco or Nicotine. However, the respondent Police are frequently interfering with the petitioner's business and also directing the petitioner not to serve herbal hookah. Hence, the present petition has been filed.



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3. Learned counsel appearing for the petitioner submitted that the Hon'ble Apex Court, vide order dated 08.04.2014, in SLP(C) No.8143 of 2014 has held that serving and smoking of herbal hookah is not banned under any law and the same is permissible under the COTPA. He further submitted that the petitioner is following all the guidelines properly. Hence, he prayed that a direction may be issued to the respondent police not to interfere with the petitioner's business.

4. Learned Government Advocate (Criminal Side) appearing for the respondents, on instructions, submitted that the respondent Police have not caused any disturbance to the petitioner's lawful business activities. He further submitted that similar kinds of issues have already been dealt with by a Co-ordinate Bench this Court in W.P.Crl.No.560 of 2025, vide order dated 19.08.2025 and in Crl.O.P.No.23188 of 2025, vide order dated 26.08.2025, wherein, this Court directed the petitioners therein to approach the Food Safety and Standards Authority of India (FSSAI) Authorities to prove that their products do not contain tobacco. He, therefore, submitted that if the petitioner is of the view that its products do not contain any Tobacco or Nicotine, it is for the petitioner to satisfy the competent authorities, particularly, the FSSAI.



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

6. This Court perused the earlier order passed by this Court in respect of the similar issue and the relevant paragraphs of the order dated 26.08.2025 passed in Crl.O.P.No.23188 of 2025 are extracted hereunder:-

*“5.Though the petitioner states that they are not using any Tobacco or Nicotine products in the earmarked smoking area for serving herbal flavour hookah, the question as to whether the so-called herbal products, as claimed by the petitioner, contain Tobacco or Nicotine or not, can only be determined by the experts and not by this Court. This Court cannot proceed merely on the basis of oral submissions.*

*6.It is relevant to note that, by way of amendment brought by the State Government under L.A.Bill No.57 of 2022, Section 4-A was introduced to Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (“COTPA Act” for brevity), which prohibits hookah bars. Therefore, whether the petitioner's hookah contains Tobacco or Nicotine or not, is an issue that has to be determined by the competent authority.*

*7.On considering the provisions of the COTPA Act and Food Safety and Standards Act, 2006, if the product used in the hookah is Tobacco containing Nicotine, it will fall under*



*the COTPA Act. Further, the inhalation of smoke derived from any product other than Tobacco containing Nicotine, will also fall within the definition of “food” under Section 2(za) of the Food Safety and Standards Act. Therefore, if at all the petitioner 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 within the prohibition under COTPA Act.*

*8.The petitioner 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 he wants to use any product other than that containing Nicotine and claims it to be a herbal product, the same must be in satisfaction with the provisions of Food Safety and Standards Act, 2006.*

*9.Therefore, the petitioner is directed to approach the FSSAI Authorities and place before them all the ingredients used in the preparation of hookah in the petitioner's premises. The Food Safety Officer may draw samples and send them to the laboratory for testing. If the authorities are satisfied that the products used by the petitioner in their hookah do not contain any Tobacco or Nicotine, the petitioner is at liberty to continue his business in respect of running of the hookah bar.*

*10.Insofar as the running of the restaurant is concerned, the respondents shall not interfere with the petitioner's business. However, it is made clear that the respondents Police are always at liberty to take action, if any*



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*illegal activities are found to be carried on in the petitioner's premises.”*

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7. The aforesaid decision is applicable on all fours to the facts of the present case. Accordingly, applying the ratio laid down in the above case, the petitioner is directed to approach the FSSAI Authorities and place before them all the ingredients used in the preparation of herbal 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 his business of running of the herbal hookah bar. Further, the respondent police shall not interfere with the petitioner's business. However, it is made clear that the respondent Police are always at liberty to take action, if any illegal activities are found to be carried on in the petitioner's premises.

8. This Criminal Original Petition stands disposed of with the above directions and observation.

**20.01.2026**

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Neutral Citation: Yes/No



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To

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1. The Assistant Commissioner of Police (Egmore Range),  
Chennai – 600 008.
2. The Inspector of Police,  
F-2 Egmore Police Station,  
Chennai 600 008.
3. The Public Prosecutor,  
High Court of Madras.



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**A.D.JAGADISH CHANDIRA, J.**

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***20.01.2026***