



CRL.O.P.No.16140 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

WEB COPY

DATED: 13.07.2022

CORAM:

**THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR**

CRL.O.P.No. 16140 of 2022

and

CrI.M.P.No.9172 of 2022

Jaisankar

.. Petitioner

Versus

1.The State  
Represented by Special Sub-Inspector of Police  
Prohibition Enforcement Wing  
Tiruppur Police Station  
Tiruppur

2.Venkatachalam

.. Respondents

PRAYER:Criminal Original Petition filed under Section 482 of Cr.P.C. praying to call for the records relating to the final report in STC No. 538 of 2022 on the file of the Hon'ble Court of Judicial Magistrate – II, Avinashi and quash the same with respect to the petitioner.

For Petitioner : Mr.N.Manoj Kumar  
for Mr.Dharani Subramanian  
For Respondents : E.Raj Thilak for R1  
Additional Public Prosecutor



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## **ORDER**

**WEB COPY** This petition has been filed challenging the final report in STC No. 538 of 2022 pending on the file of the learned Judicial Magistrate – II, Avinashi based on the FIR registered for the offences under Section 4(1)(a) of the Tamil Nadu Prohibition Act and consequently, quash the same with respect to the petitioner.

2. The crux of the allegation in the final report is that the accused was found possession of 96 IMFL rum bottle in a car. When the car was intercepted, the rum bottles measuring 180 milligram numbering 96 bottles is said to have been seized by the investigation officer. The crime has been registered in Cr.No. 860 of 2021 datede 10.07.2021 and the final report has been filed on the very next date viz., 11.07.2021.

3. The learned counsel for the petitioner submitted that the very prosecution is nothing but an abuse of process of law and no materials are available on record to proceed against the accused.

4. Heard the learned Additional Public Prosecutor and perused the materials placed on record. Normally, the Court's would not venture into the probative value of the statements recorded or materials collected by the police



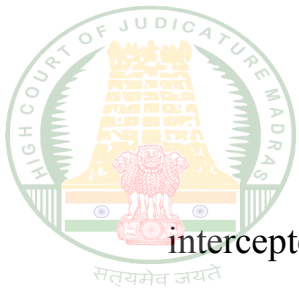
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while exercising powers under Section 482 of Cr.P.C. But, at the same time,

when the Court finds very prosecution itself is infested with a motive and instituted due to statistical purpose without any materials, the Court can very well interfere and quash such proceedings to prevent abuse of process of law.

5. Though it is alleged that 96 IMFL rum bottles each containing 180 milligrams were found in possession of the accused, there is no evidence except the statement of the investigation officer. It is relevant to note when the IMFL liquor is found, there is no need to destroy the liquors. The destruction of the liquor arises only in the case where the toddy, wash or sonti soru is seized by the police officer. Destruction should be made in the spot after collecting the necessary samples. Similarly, the destruction is also required if it is illicit arrack. It is not the case of the prosecution that the liquor is illicit., admittedly only IMFL bottles., there was no reason as to why those bottles have not been produced before the Trial Court and not even the photographs taken by investigation officer.

6. It is also relevant to note that though it is stated that the occurrence took place on 11.07.2021, the FIR has been registered on 10.07.2021 which is prior to the occurrence of the alleged offence. The FIR reads as if the car was



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intercepted on 11.07.2021 at 8.45 p.m near the Tasmac shop, whereas, the FIR

**WEB COPY** has been registered on the previous day i.e.,10.07.2021. The final report has been filed on 11.07.2021 before FIR reached the Court. In fact, the FIR has been reached to the Court only on 23.07.2021 at 1.40 pm as per the endorsement of the learned Judicial Magistrate, Avinashi. This facts clearly establishes the fact that the prosecution is nothing but malafide one. The alleged statement of the investigation officer that the bottles were destroyed in the road, also improbable.

7. In view of the above observation, the final report in S.T.C.No.538 of 2022 is quashed and accordingly, this Criminal Original Petition stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

13.07.2022

Internet : Yes / No  
Index : Yes / No  
Speaking / Non Speaking order  
dhk

**N. SATHISH KUMAR, J.**



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To

1.Judicial Magistrate – II  
Avinashi

2.The Special Sub-Inspector of Police  
Prohibition Enforcement Wing  
Tiruppur Police Station  
Tiruppur

3.The Public Prosecutor  
Madras High Court, Chennai.

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