
(2026) 08 MAD CK 1253

In the Madras High Court, Madurai Bench

Case No : Crl.O.P.(MD)No.15941 of 2026 and Crl.M.P(MD)Nos.15489 & 15490 of 2026

Ilankovan

APPELLANT

Vs

State of Tamil Nadu

RESPONDENT

Date of Decision : 05-08-2026

Acts Referred:

Tamil Nadu Prohibition Act, 1937 — Section 4(1-A), 4(1)(aa), 4(1)(k), 18-A
Indian Evidence Act, 1872 — Section 25, 27

Citation : (2026) 08 MAD CK 1253

Hon'ble Judges : R. Vijayakumar, J.

Bench : Single Bench

Advocate : For Petitioner: M/s.M.Lingadurai; For Respondent: M/s.P.Samuel Gunasingh, Counsel for State of TN(crl.side)

Final Decision : Dismissed

Judgement

The present Criminal Original Petition has been filed by the petitioner, who is arrayed as A3 in S.C. No.269 of 2026 on the file of the II Additional Assistant Sessions Court/II Additional Sub Court, Madurai, invoking the inherent jurisdiction of this Court to quash the final report insofar as it relates to him. The petitioner stands charged with the offences punishable under Sections 4(1-A), 4(1)(aa), 4(1)(k) and 18-A of the Tamil Nadu Prohibition Act.

2. A perusal of the final report reveals that the petitioner is the owner of Vishaal De-Mall as well as the proprietor of the restaurant known as "Gravity Launch Bar" situated on the third floor of the said Mall. The prosecution case is that on 15.10.2017, at about 7.15 p.m., during the course of a search conducted in the restaurant, A1 and A2, who were employed therein, were found selling liquor allegedly procured from Puducherry as well as from TASMAL under the instructions of the petitioner. It is further alleged that foreign liquor was also recovered from the premises and that atropine had been mixed with the liquor with a view to earn higher profits and attract customers. On the strength of the

said allegations, the petitioner has been charge-sheeted for the aforesaid offences.

3. Learned counsel appearing for the petitioner submitted that the petitioner has been implicated solely on the basis of the alleged confessional statements of A1 and A2. It was contended that the said confessional statements did not lead to the discovery of any incriminating material at the instance of the petitioner. In view of the bar contained under Section 25 of the Indian Evidence Act, 1872, the confessional statements made before the police are inadmissible in evidence except to the limited extent permissible under Section 27 of the Act. In the absence of any recovery pursuant to the alleged confession and there being no other independent incriminating material connecting the petitioner with the alleged offences, the prosecution, according to the learned counsel, is unsustainable.

4. In support of the above submission, learned counsel placed reliance upon the decision of the Hon'ble Supreme Court in **Karan Talwar v. State of Tamil Nadu**, reported in **2024 SCC Online SC 3803**, and contended that where the prosecution case against an accused rests exclusively on the confessional statement of a co-accused, which has not resulted in the discovery of any incriminating material, such confession is inadmissible in evidence and cannot constitute the sole basis for prosecution.

5. Learned counsel further submitted that the FL-3 licence granted in favour of the petitioner was challenged in W.P.(MD) No.15658 of 2015 and came to be set aside by this Court only by order dated 20.02.2018. It was therefore argued that the licence continued to remain valid and operative on the date of the alleged occurrence, namely, 15.10.2017, and consequently, the mere recovery of liquor bottles from the licensed premises cannot amount to a violation of the provisions of the Tamil Nadu Prohibition Act.

6. It was further contended that the de facto complainant and the Investigating Officer are one and the same person. Placing reliance upon the decision of the Hon'ble Supreme Court in **Mohan Lal v. State of Punjab**, reported in **(2018) 17 SCC 627**, learned counsel submitted that an investigation conducted by the complainant himself stands vitiated in law and, therefore, the prosecution is liable to be quashed.

7. Learned counsel further contended that Section 4(1-A) of the Tamil Nadu Prohibition Act has no application to the facts of the present case, as the allegations do not fall within the contingencies contemplated under clauses (aaa), (b), (f), (h) or (i) of Section 4(1) of the Act. It was also argued that prosecution under Section 4(1)(aa) can be sustained only if the quantity of liquor involved exceeds 50 litres, whereas the final report is conspicuously silent regarding the total quantity of liquor allegedly seized.

8. Learned counsel further submitted that the invocation of Section 4(1)(k) of the Act is wholly misconceived since no liquor was recovered from the possession of

the petitioner. According to the prosecution itself, the recovery was effected only from A1 and A2. In the absence of any recovery from the petitioner or any material establishing his conscious possession of the liquor, the ingredients of Section 4(1)(k) are not attracted. On the same reasoning, it was contended that Section 18-A of the Act is also inapplicable to the petitioner.

9. Learned counsel lastly submitted that the FL-3 licence had been cancelled by the District Collector by proceedings dated 31.03.2017. Pursuant thereto, the General Manager of the restaurant, by communication dated 06.08.2017, informed the District Collector that the operation of the bar had been discontinued and that only the restaurant business was being carried on. It was therefore argued that if A1 and A2 had indulged in the sale or possession of contraband liquor without the knowledge or consent of the petitioner, the petitioner cannot be fastened with criminal liability. On the above grounds, learned counsel prayed for quashing of the final report.

10. Per contra, learned Government Advocate(crl.side) appearing for the respondent submitted that the liquor bottles seized during the search were forwarded for forensic examination and the Regional Forensic Science Laboratory report confirmed the presence of atropine in the samples. It was further contended that Section 4(1)(k) of the Tamil Nadu Prohibition Act relates to the possession or management of the premises where the prohibited activity is carried on and is not confined to physical possession of the liquor bottles. Since the petitioner admittedly owned and managed the restaurant premises, the invocation of the said provision is fully justified. It was further submitted that, by virtue of Section 4(1-A)(2)(b) of the Act, a statutory presumption arises against the person in possession or management of the premises where liquor or intoxicating substances are found, and the burden lies upon the petitioner to establish that such articles were found without his knowledge, which is a matter to be adjudicated only during trial.

11. Learned Government Advocate(crl.side) further submitted that the FL-3 licence granted to the petitioner on 04.02.2015 was not renewed beyond 31.03.2017. The communication addressed by the General Manager on 06.08.2017 acknowledging discontinuance of the bar operations also substantiates the said position. Nevertheless, during the search conducted on 15.10.2017, liquor bottles procured from TASMAL as well as from Puducherry were recovered from the premises and forensic analysis disclosed the presence of atropine in some of the seized bottles. According to the learned Government Advocate(crl.side), these materials prima facie establish the commission of the alleged offences and warrant the continuation of the prosecution.

12. It was further submitted that the seizure of liquor bottles procured from Puducherry also prima facie attracts the provisions of Section 18-A of the Tamil Nadu Prohibition Act relating to contravention of the excise law. Likewise, in view of the forensic report confirming the presence of atropine in the seized liquor, the invocation of Section 4(1-A) of the Act is fully justified. Accordingly, it was

prayed that the petition be dismissed.

13. This Court has carefully considered the rival submissions advanced on either side and perused the materials available on record.

14. It is not in dispute that the petitioner is the owner of Vishaal De-Mall as well as the person in management of the restaurant functioning on the third floor of the said premises. The restaurant was granted an FL-3 licence on 04.02.2015 for serving liquor. However, the licence came to be cancelled by the District Collector, by proceedings dated 31.03.2017, on the ground that the establishment was situated within 500 metres of a State Highway. Thereafter, by communication dated 06.08.2017, the General Manager of the restaurant informed the District Collector that the directions contained in the cancellation order had been complied with by discontinuing the operation of the bar and continuing only the restaurant business. These factual aspects are not in controversy.

15. The records disclose that the respondent conducted a search in the restaurant at about 7.15 p.m. on 15.10.2017. During the course of the search, liquor bottles were allegedly recovered from A1 and A2, who were employed in the restaurant. It is on the basis of the materials collected during the investigation, including the statements of A1 and A2, that the petitioner, being the proprietor of the restaurant and owner of the Mall, has been arrayed as A3.

16. The contention of the petitioner that the FL-3 licence continued to remain operative until it was set aside by this Court on 20.02.2018 does not merit acceptance. The records disclose that the licence had already been cancelled by the District Collector on 31.03.2017 and such cancellation is further corroborated by the communication dated 06.08.2017 addressed by the General Manager acknowledging compliance with the said order. In such circumstances, the subsequent order of this Court dated 20.02.2018 cannot enure to the benefit of the petitioner so as to validate the operation of the bar after 31.03.2017. Consequently, the petitioner could not have lawfully continued the bar operations beyond the date of cancellation.

17. Insofar as the challenge to the invocation of Section 4(1)(k) of the Tamil Nadu Prohibition Act is concerned, the said provision contemplates possession or management of the premises where the prohibited activity is carried on and is not confined to the physical possession of the liquor by the accused. Admittedly, the petitioner is the owner and person in management of the restaurant as well as the Mall, and the seizure of the liquor bottles is stated to have been effected from the restaurant premises. Therefore, the contention that the expression "possession" occurring in Section 4(1)(k) refers only to possession of the liquor bottles and not to the premises cannot be accepted.

18. A perusal of the materials accompanying the final report, particularly the Regional Forensic Science Laboratory report, prima facie indicates the presence of atropine in the seized liquor samples. In the light of the said scientific evidence, the invocation of Section 4(1-A) of the Tamil Nadu Prohibition Act

cannot, at this stage, be said to be without basis.

19. Since the FL-3 licence stood cancelled with effect from 31.03.2017, the petitioner was not legally entitled to possess or deal with liquor thereafter. The materials collected during the investigation, therefore, prima facie justify the invocation of Section 4(1)(aa) of the Act. Further, the seizure mahazar discloses that certain liquor bottles had allegedly been procured from Puducherry. In such circumstances, the invocation of Section 18-A of the Tamil Nadu Prohibition Act on the allegation of violation of the excise law cannot be held to be unwarranted.

20. On an overall consideration of the materials placed before the Court, this Court is satisfied that the final report discloses a prima facie case warranting trial against the petitioner. The contentions advanced on behalf of the petitioner do not disclose any ground for exercise of the inherent jurisdiction of this Court to quash the proceedings. It is, however, made clear that the Trial Court shall adjudicate the matter independently and uninfluenced by any observations contained in this order.

21. The personal appearance of the petitioner before the Trial Court shall stand dispensed with, except on such occasions when his presence is specifically directed by the Trial Court.

22. In the result, finding no merit in the Criminal Original Petition, the same is dismissed. Consequently, the connected miscellaneous petitions are also closed.