

(2012) 03 KAR CK 0007
In the Karnataka High Court
Case No : Criminal Petition No. 4665 of 2008

Smt. Mahananda

APPELLANT

Vs

State of Karnataka

RESPONDENT

Date of Decision : 30-03-2012

Acts Referred:

Karnataka Excise Act, 1965 — Section 13, 14, 32, 38-A, 54

Citation : (2013) 2 KarLJ 178

Hon'ble Judges : N. Ananda, J

Bench : Single Bench

Advocate : G.K. Bhat, for the Appellant; Vijaykumar Majage, High Court Government Pleader, for the Respondent

Final Decision : Dismissed

Judgement

N. Ananda, J.—This petition is filed to quash FIR No. 206 of 2008, registered for offences punishable under Sections 13, 14, 32 and 38-A of the Karnataka Excise Act, 1965 (for short, "the Act"). As per the averments of first information, on 24-7-2008 at about 12.30 in the noon, the complainant/Excise Inspector of Tiptur Sub-Division visited the wine shop of petitioner namely "Suma Liquors" situate in Tiptur Town and found: (i) that unauthorised person was selling liquor; (ii) bill book was not produced; (iii) accounts were not maintained; (iv) discrepancy between entries in the stock book and physical stock; and (v) liquor being sold in lose quantities.

2. The learned Counsel for petitioner relying on a decision in the case of K.L. Subbayya Vs. State of Karnataka, would submit that search conducted by an officer, without recording of the grounds for his belief that an offence under the Act was likely or being committed would vitiate entire proceedings and investigation of first information would be abuse of process of law. The averments of first information accepted at their face value do not constitute offences alleged against petitioner.

3. The learned HCGP would submit that under Rule 21 of the Karnataka Excise Licences (General Conditions) Rules, 1967 (for short, "the Rules"), any Excise Officer not below the rank of Sub-Inspector of Excise has been authorised to inspect any shop. What was conducted on 24-7-2008 was only inspection. There was neither search nor seizure of liquor. In the circumstances, Section 54 of the Act is not attracted.

4. This petition is filed to quash the first information, which would prima facie reveal the aforesaid offences. At this stage, it is not possible to suspect the contents of first information. It is not possible to take into consideration the probable defence that may be available to petitioner during trial. At this stage, it is not possible to hold that there was violation of the provisions of Section 54 of the Act. Such contention can be raised only after final report is filed against petitioner. Therefore, I do not find any grounds to quash the first information. The petition is dismissed with the above observations.