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Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 25.03.2024
PRONOUNCED ON : 29.07.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

Crl.R.C.No.1878 of 2023

S.S.D.M Water Industries,
Rep by its Owner
Binai Soman, S/o.Soman,
Aged about 42 years,
No.B4/16 NA, CMDA Industrial Complex,
Maraimalai Nagar, Chengalpattu.

... Petitioner

Vs.

State, rep. by
The Inspector of Police,
PEW, Madhuranthakam Police Station,
Chengalpattu District.
(Crime No.730 of 2023).

... Respondent

Crl.R.C.No.2079 of 2023

Kishore Kumar

... Petitioner

Vs.

State, rep. by
The Sub - Inspector of Police,
PEW, Mathuranthagam Police Station,
Chengalpattu District.
(Crime No.730 of 2023).

... Respondent



Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

Crl.R.C.No.94 of 2024

WEB COURT

L.Raghu Kumar

... Petitioner

Vs.

The State Rep by.,
Inspector of Police,
Prohibition Enforcement Wing (PEW),
Maduranthakam.

... Respondent

Prayer in Crl.R.C.No.1878 of 2023: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 05.10.2023 made in Crl.M.P.No.4873 of 2023 on the file of the Judicial Magistrate No.I, Madhuranthakam, Chengalpattu District dismissing the petition to return the vehicle viz., Hyundai Creta car bearing Registration No.TN-19-AT-9984 to the petitioner herein.

Prayer in Crl.R.C.No.2079 of 2023: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 20.10.2023 made in Crl.M.P.No.5336 of 2023 on the file of the Judicial Magistrate No.I, Madhuranthakam, Chengalpattu District dismissing the petition to return the vehicle viz., Honda Jazz Car bearing Registration No.TN-19-U-9192 to the petitioner herein.

Prayer in Crl.R.C.No.94 of 2024: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate No.I, Madurantakam, in Crl.M.P.No.5790 of 2023 in Crime No.730 of 2023 and grant interim custody of the property to the petitioner.

For Petitioner

in Crl.R.C.Nos.1878 & 2079 of 2023 : Mr.R.Sasikumar

For Petitioner

in Crl.R.C.No.94 of 2024

: Mr.V.Krishnamoorthy

For Respondent in all revisions

: Mr.S.Rajakumar,

Additional Public Prosecutor



COMMON ORDER

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The petitioner in Crl.R.C.No.1878 of 2023 is the owner of Hyundai Creta bearing Reg.No.TN-19-AT-9984. The petitioner in Crl.R.C.No.2079 of 2023 is the owner of Honda Jazz Car bearing Reg.No.TN-19-U-9192. The petitioner in Crl.R.C.No.94 of 2024 is the owner of Tempo Traveller bearing Reg.No.TN-21-AS-2828. All the three vehicles seized by the respondent Police in Crime No.730 of 2023 for offence under Sections 4(1)(aaa), 4(1-A) of The Tamil Nadu Prohibition Act, 1937, Sections 7 & 11 of The Tamil Nadu Rectified Spirit Rules, 2000 and Sections 468, 471 and 420 of IPC. To return the said vehicles, owner of the vehicles/petitioners herein filed return of property petitions in Crl.M.P.Nos.4873, 5336 & 5790 of 2023 before the learned Judicial Magistrate No.I, Madhuranthakam and the same were dismissed by impugned orders, dated 05.10.2023, 20.10.2023 and 08.12.2023 respectively. Challenging the same, the present criminal revision cases filed.



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2.Since all the three revisions pertain to FIR in Crime No.730 of 2023 and grounds raised, relief sought for are similar, this Court disposes all the revisions by way of common order.

3.The brief facts of the case is as follows:

(i)The respondent Police as a Police party on 17.08.2022 at about 11.00 p.m., were keeping watch on the movement of vehicles in Chennai to Villupuram National Highway near Madhuranthakam Iyyanar Temple junction. At that time, on seeing the respondent Police, Tata Mini Lorry bearing Reg.No.TN-18-S-7561 took U-turn. The Police party stopped the vehicle and enquired the driver, who disclosed his identity as Megavannan, S/o.Varathan. On search of vehicle, it was found that the vehicle was carrying paddy straw, under which 35 liter blue colour plastic cans of 175 numbers found and each can filled up with 33 liters of rectified spirit totally 5,775 liters. Since the rectified spirit is a banned item, the respondent Police arrested Megavannan, seized the vehicle and rectified spirit. From his confession, it was disclosed that he illegally transported rectified spirit to one



Viji few months back. Due to which, he was arrested by Tiruvannamalai Police. After released on bail, one Kishore and Ashokan met Megavannan and informed that all the three can join together and transport rectified spirit in large scale by purchasing tanker lorry. The said Kishore informed that his uncle Dhanasekar, owner of Akshaya Bhavan would finance them to purchase tanker lorry and he has to be given share in the profit.

(ii) Four months prior to the occurrence, Megavannan, Kishore and Ashokan went to Salem, purchased Tata Container lorry bearing Reg.No.KA-51-B-5119 for Rs.8.5 lakhs and installed 20,000 liters capacity tank inside the said container. Thereafter, the said Megavannan took the Tata Container lorry to Bhopal, State of Madhya Pradesh, met one Hyderabad Suresh, Maharashtra Raja and handed over the Tata Container lorry. The said Hyderabad Suresh and Maharashtra Raja filled up the lorry with rectified spirit and handed over the same to Megavannan. Then the said Megavannan brought Tata Container lorry to Salavakkam and parked the same in Kattuputhur Milk Dairy. Thereafter, the rectified spirit transferred into 35 liters cans and handed over to Viji @ Vijayakumar.



Then the empty lorry parked at Vanagaram Sivaji Parking.

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(iii) In the month of May, 2022, 10 kms before Tiruvannamalai on the instruction of Viji @ Vijayakumar, 90 cans of rectified spirit and after crossing Tiruvannamalai near Sengam, 65 cans of rectified spirit unloaded. But Tiruvannamalai Police seized the rectified spirit, arrested Viji @ Vijayakumar. On his confession, Megavannan and Ashokan also arrested by the Police. After coming out on bail, Kishore and Ashokan contacted Megavannan and informed that he has to take tanker lorry again for transporting rectified spirit from Bhopal. Megavannan had gone to Sivaji Parking where Kishore and Ashokan came there by Suzuki bike bearing Reg.No.TN-12-AT-6006 and gave Rs.85,000/- for diesel and other expenses. They informed Megavannan that he had to take the vehicle to Bhopal and park near tollgate. Then Hyderabad Suresh and Maharashtra Raja would come there, take the lorry and fill up the tanker with rectified spirit. The lorry was filled up with 17,000 liters of rectified spirit and brought back and parked in Sivaji Parking at Vanagaram. For transporting the cans of rectified spirit, small vehicles not immediately available and hence, the



vehicle parked there for a month.

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(iv) On 15.07.2023, in Seven Star Parking at Thiruverkadu, a Tata Mini lorry bearing Reg.No.TN-33-BR-6283 purchased through a broker and brought to Sivaji Parking at Vanagaram. Earlier Kishore purchased 300 empty plastic cans of 35 liters each and stocked the same in scrap godown. 260 cans loaded in Tata Mini lorry bearing Reg.No.TN-33-BR-6283. Then the tanker lorry moved from Sivaji Parking at Vanagaram and brought to Kattuputhur Milk Dairy. At that time, the said Kishore used Honda Jazz car bearing Reg.No.TN-19-U-9192 as escort. Along with him, Ramkumar, Sankar and Ramakrishnan travelled. In a short while, Chengalpet Dhanasekar, Pukkathur Lakshmipathy came in Hyundai Creta bearing Reg.No.TN-19-AT-9984 and handed over sticker inscription of Reg.No.TN-18-S-7561 and pasted over the original Reg.No.TN-33-BR-6283 of Tata Mini lorry. Thereafter, 260 cans filled with rectified spirit and loaded in Tata Minor lorry. Over the cans, paddy straws loaded to cover the cans. In the Tanker lorry, balance 8,580 liters of rectified spirit available and the Tanker lorry parked near Indian Oil Petrol Bunk.



WEB COPY (v)On 10.08.2023, Kishore came in Tempo Traveller bearing

Reg.No.TN-21-AS-2828. In the said vehicle, 42 cans loaded and handed over to T.Nagar Guna. The Milk Dairy Watchman Ramakrishan informed since movements started, requested Tata Mini lorry to be moved from there.

On 12.08.2023, the said Megavannan parked Tata Mini Lorry along with Tanker lorry in Indian Oil Petrol Bunk and he left. Later, on 16.08.2023, it was noticed that from the Tata Mini lorry there was leakage of rectified

spirit due to damage of some of plastic cans, which were removed and destroyed by burning. Thereafter, Dhanasekar filled up ten cans and taken away. Later, the Tata Mini Lorry parked in Nursery Garden of Guna @

Gunasekaran. On 17.08.2023, when Megavannan transported the balance 175 cans near Madhuranthakam Iyyanar Kovil junction, the respondent

Police stopped Tata Mini Lorry bearing Reg.No.TN-18-S-7561, enquired and seized at about 10.15 p.m. On disclosure of fact, the Tanker lorry

bearing Reg.No.KA-51-B-5119 seized. The 175 cans of rectified spirit seized, samples taken, sent for chemical examination. The informant viz.,

Paripoornam, Inspector of Police, Madhuranthakam PEW took the accused



to Police Station and FIR in Crime No.730 of 2023 for offence under Sections 4(1)(aaa), 4(1-A) of The Tamil Nadu Prohibition Act, 1937, Sections 7 & 11 of The Tamil Nadu Rectified Spirit Rules, 2000 and Sections 468, 471 and 420 of IPC registered on 18.03.2023.

4.The learned counsel appearing for the petitioner in Crl.R.C.No.1878 of 2023 submitted that the petitioner is not an accused in this case and he is the owner of Hyundai Creta bearing Reg.No.TN-19-AT-9984. The petitioner is the owner of SSDM Water Industries situated at Maraimalai Nagar, Chengalpet. He is residing with his family for many years. His vehicle Hyundai Creta bearing Reg.No.TN-19-AT-9984 seized by the respondent Police on the confession given by one Kishore for alleged illegal transportation of rectified spirit. Without any valid reason, the respondent Police seized the petitioner's car. Since the petitioner and his family members each were having separate cars, there was no spaces for parking in the house. Hence, the petitioner used to park the vehicle in the house of one Dhanasekar. It was construed by the respondent Police that Dhanasekar is the owner of the vehicle and the vehicle seized. He further submitted that



after seizure, the vehicle kept in open yard exposing to vagaries of weather, due to which, value of the vehicle getting diminished and further keeping the vehicle in open space would make the vehicle unusable. Hence, he prays for setting aside the impugned order and return of vehicle.

5.The learned counsel appearing for the petitioner in Crl.R.C.No.2079 of 2023 submitted that the petitioner is the owner of vehicle Honda Jazz Car bearing Reg.No.TN-19-U-9192 and he is not an accused in this case. The petitioner is residing in Pazhamuthur Village, Madhuranthakam Taluk, Chengalpet District along with his family. The vehicle seized as though the vehicle used for transportation of rectified spirit. The petitioner and his family members are having independent car, due to which, there was shortage of parking space in his house, hence, he used to park the car in street. One Kishore named accused in this case is the relative of the petitioner. The respondent Police on a wrong assumption that the vehicle owner is the named accused Kishore since the petitioner's name and the accused name are similar. Further on the confession of one Dhanasekar, the petitioner's vehicle seized. After seizure, the vehicle kept in open yard



exposing to vagaries of weather, due to which, value of the vehicle getting diminished and further keeping the vehicle in open space would make the vehicle unusable. Hence, he prays for setting aside the impugned order and return of vehicle.

6.The learned counsel appearing for the petitioner in Crl.R.C.No.94 of 2024 submitted that the petitioner is residing at Valasaravakkam, Chennai with his family and he is the owner of the vehicle Tempo Travel bearing Reg.No.TN-21-AS-2828 and he is not an accused in this case. The vehicle of the petitioner seized by the respondent Police on 08.12.2023 projecting that the vehicle used for transportation of rectified spirit in cans. The petitioner entered into an agreement with one P.Gunasekaran of South Boag Road, T.Nagar and rented his vehicle Tempo Traveller to him *vide* deed, dated 27.09.2021. On the confession of Kishore, it was projected that 42 cans of rectified spirit loaded into the petitioner's Tempo Traveller from Tata Mini lorry and handed over the same to one Guna @ Gunasekaran of T.Nagar. The said Guna @ Gunasekaran said to have used the Tempo Traveller vehicle for business trips. On 18.08.2023, the Tempo Traveller



parked near the house of Guna @ Gunasekaran. On 19.08.2023, it was booked for a trip. Before completion of the trip, on 24.08.2023 the vehicle was brought back by the Driver Kothandapani at the insistence of the Police. The learned counsel further submitted that the respondent Police had gone to Swamy Malai at Tanjavur District where the vehicle was booked for a trip and from there the vehicle was taken to the respondent Police Station. If the vehicle really transported rectified spirit, toll booth in Chengalpet would have recorded the movement of vehicle at the relevant point of time *i.e.*, on 17.08.2023 as alleged by the respondent Police. Without collecting any toll details to confirm the movement of the vehicle near the scene of occurrence, the vehicle seized from Swamy Malai.

7.The learned counsel further submitted that on 25.08.2023, a Tempo Traveller vehicle bearing Reg.No.TN-22-CS-5986 which is in the name of Yogammal, was taken from Chennai to Swamimalai by the Driver Kothandapani along with Police Constable, shifted the passengers from the vehicle bearing Reg.No.TN-21-AS-2828 to the vehicle bearing Reg.No.TN-22-CS-5986 and took the vehicle bearing Reg.No.TN-21-AS-2828 and



handed over to Palur Police Station. These facts would clearly show that that the Tempo traveller of the petitioner was in Swamymalai and toll gates in Swamymalai, Chethiyathope, Vadalur, Panruti, Koliyanur Kootroad and Puducherry would confirm that the vehicle bearing Reg.No.TN-21-AS-2828 was taken from Swamimalai and not as projected by the respondent Police.

8.The learned Additional Public Prosecutor appearing for the respondent Police filed counter in all revision cases narrating the sequence of events, registration of the case and seizure of vehicles with rectified spirit during road check. During investigation, on the confession of accused, it came to light that A1-Dhanasekar and A2-Kishore who are relatives gave money to one A9-Lakshmipathy who is a Hawala agent. A9 gave money to A12. Then A1 instructed A3 to go Bhopal along with Tanker lorry bearing Reg.No.KA-51-B-5119 and fill up container with rectified spirit. Then A3 brought the container lorry from Bhopal along with two drivers A4 and A5. Later, all the accused transported the rectified spirit in 35 liter cans, transferred the same in small vehicles and sold for the purpose of making it into an alcohol. There are totally 21 accused in this case and some of the



accused were still absconding. The specific overtact of the accused stated in the counter as follows:

<i>Name and Rank of the Accused</i>	<i>Overtact</i>	<i>Date of Arrest</i>
A1/Dhanasekar	He is the main accused in this case, he along with A2 and gave the money to other accused and obtained the rectified spirit and supplied the same illegally and earned money.	Arrested on 19.08.2023
A2/Kishore	He is relation of A2 and he along with A1 and gave the money to other accused and obtained the rectified spirit and supplied the same illegally and earned money	Arrested on 19.08.2023
A3/Megavanan	He is driver as per the instruction of A1 & A2. He went along with A4 and A5 to Bhopal and collected the rectified spirit in container lorry and transported the same to A1 illegally.	Arrested on 17.08.2023
A4/Ram Kumar	He is also driver. As per the instruction of A1 he went to Bhopal and collected the rectified spirit in container lorry and transported the same to A1 illegally.	Arrested on 19.08.2023
A5/Shankar	He is also driver. As per the instruction of A1, he went to	Arrested on 19.08.2023



<i>Name and Rank of the Accused</i>	<i>Overtact</i>	<i>Date of Arrest</i>
	Bhopal and collected the rectified spirit in container lorry and transported the same to A1 illegally.	
A6/Ramakrishnan	Who is working in the poultry farm and he separated the rectified spirit into small packet and supplied the same illegally	Arrested on 19.08.2023
A7/Malligaarjuna	He supplied the rectified spirit as per the order of A1 and he obtained the commission money	Arrested on 21.08.2023
A8/Ashokan	He is owner of Container Lorry with modified tank inside bearing Registration No.KA 51 B 5119 and he supplied vehicle to A1 for illegal purpose	Arrested on 02.09.2023
A9/Lakshmi pathi	He is Hawala Agent and he received money from A1 & A2 and gave to A18 and sent the money to Bhopal through A18	Arrested on 02.09.2023
A10/Velu @ Pottu Velu	He is one of the agent and contacted A7 whether he want the spirit and illegally sold the rectified spirit and earned money	Arrested on 02.09.2023
A11/Senthil Kumar	He gave money to A10 and obtained rectified spirit and sold the same illegally.	Arrested on 02.09.2023



<i>Name and Rank of the Accused</i>	<i>Overtact</i>	<i>Date of Arrest</i>
A12/Suresh @ Pogala Suresh Kumar	After received information from A1 & A2 he along with A19, met A20 and informed that the vehicle is on the way to load the rectified spirit.	Arrested on 26.08.2023
A13/Murali	He prepared the lorry along with tank inside for illegal purpose.	Arrested on 23.08.2023
A14/Guna @ Gunasekaran	After received the rectified spirit from A1 and A2, he gave money to them and obtained the rectified spirit and supplied the same to A15 and earned money.	Arrested on 24.08.2023
A15/Arul @ Venkacherry Arul	He received 42 cans rectified spirit from A14 and supplied to A16 and A17.	Arrested on 25.08.2023
A16/Venkatesan	He received rectified spirit from A15 and sold the same illegally and earned money.	Arrested on 31.08.2023
A17/Sridhar	He received rectified spirit from A15 and sold the same illegally and earned money.	Arrested on 05.09.2023
A18/Sanjay	He is Hawala agent and he received money from A9 and transferred the same to Madhya Pradesh.	Still Absconding
A19/Raja Pillai	As per the instruction of A1 and A2 he went along with A12 and met A20 to purchase	Still Absconding



<i>Name and Rank of the Accused</i>	<i>Overtact</i>	<i>Date of Arrest</i>
	the rectified spirit.	
A20/Kurmith Singh Sasan @ Arminthar Singh	When A12 and A20 came to meet him, he clarified the money is received or not and after clarification he went to meet A21 and said the money is received and ready to load the rectified spirit in container lorry	Arrested on 02.09.2023
A21/Nikki @ Promoth Kumar Arrora	He received the money from Hawala and meet A19 and A20 and told the money is received and he sent one person to pick the lorry and loaded the rectified spirit in container lorry and then handed over the lorry to A3.	Still Absconding

9.The vehicles involved in this case seized by the respondent Police are as follows:

“(i)Lorry Original bearing registration No.TN 33 BR 6283 instead of TN 18 S 7561 TATA 1109 along with 175 cans of rectified spirit, totally 5775 litre.

(ii)Container Lorry bearing registration No.KA 51 B 5119 along with 8420 litre rectified spirit.

(iii)Tempo Traveler bearing registration No.TN 21 AS



2828 along with 1386 litre rectified spirit.

*(iv) Car bearing registration No.TN 19 AT 9984
Hyundair from A1.*

*(v) Car bearing registration No.TN 19 U 9192 Hyundair
from A2.*

(vi) Two Wheeler bearing registration No.12 AR 6006.

*(vii) 10 cans which contains 330 litre rectified spirit
from A1 and the same was burst on the spot.*

(viii) 33 cans which contains 1089 litre rectified spirit.

(ix) Total 17000 litre rectified spirit.”

10.It is further submitted that the Hyundai Creta bearing Reg.No.TN-19-AT-9984 seized from A1 in this case. On 19.08.2023, the respondent Police took steps to confiscate Hyundai Creta, Honda Jazz car and Tempo Traveller and served notice to the petitioners who are the owner of the said vehicles and the same was acknowledged. In this case, after detailed investigation, charge sheet filed against the accused in which the said vehicles shown as property. Added to it, confiscation proceedings already initiated. The petitioners to appear before the confiscation authorities and get appropriate orders. Considering the same, the lower Court dismissed the return of property petitions in Crl.M.P.Nos.4873, 5336 & 5790 of 2023.



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11.He further submitted that the vehicles of the petitioners seized for illegal transportation of rectified spirit. Normally, the rectified spirit used to be converted into arrack and sold the same to poor persons. This is not only hazardous to health, it is also a life killing spirit. Due to which, several persons suffered severe ailments and some people died. It is a well organized criminal group who transported rectified spirit from Bhopal to Chennai and then to Chengalpet, unloaded the same into cans and distributed to various places. Since the petitioners' vehicles used consciously in transportation of rectified spirit, they cannot claim return of vehicle. Hence, he strongly opposed for return of vehicles.

12.This Court considered the rival submissions and perused the materials available on record.

13.It is not in dispute that the accused in the above case illegally transported rectified spirit for the purpose of converting the same to an



arrack and selling it to innocent public at a cheaper rate. For the purpose of transporting rectified spirit, all the accused played their role consciously.

Initially, the accused purchased tanker lorry, transported the rectified spirit all the way from Bhopal to Chennai, transferred the same into plastic cans and distributed to various places in the vehicles. During road check, one of the vehicle seized. On the confession, the participation of other accused and role by each of them confirmed and vehicles involved in transportation of rectified spirit seized.

14.In the vehicles now sought for by the petitioners, already confiscation proceedings initiated and notice served to the petitioners is not in dispute. Hence, the petitioners to appear before the confiscation authority and put forth their case. It is for the confiscation authority to take appropriate decision in this regard.

15.In the result, the impugned orders, dated 05.10.2023, 20.10.2023 and 08.12.2023 in Crl.M.P.Nos.4873, 5336 & 5790 of 2023 passed by the



Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

learned Judicial Magistrate No.I, Madhuranthakam is affirmed and all the
three criminal revision cases are dismissed.

29.07.2024

Speaking Order/Non Speaking Order

Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No

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To

- 1.The Judicial Magistrate No.I,
Madhuranthakam.
- 2.The Inspector of Police,
PEW, Madhuranthakam Police Station,
Chengalpattu District.
- 3.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

M.NIRMAL KUMAR, J.

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PRE-DELIVERY COMMON ORDER IN
Crl.R.C.Nos.1878 & 2079 of 2023 and 94 of 2024

29.07.2024