IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.11.2015

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1220 of 2015

Tamilarasan .. Petitioner

Vs.

The State Represented by
Inspector of Police,
City Police Station,
Thiruvarur.
(Crime No.275/2015) .. Respondent

Criminal Revision filed under Sections 397 and 401 Cr.P.C. against the order of learned Judicial Magistrate, Thiruvarur passed in C.M.P.No.3969 of 2015 dated 18.06.2015.

For Petitioner : Mr.B.Nedunchezhiyan
For Respondent : Mr.C.Iyyapparaj,
Govt. Advocate (Crl. Side)

O R D E R

This revision challenges the order of learned Judicial Magistrate, Thiruvarur, passed in C.M.P.No.3969 of 2015 on 18.06.2015.

2. Heard learned counsel for petitioner and learned Government Advocate [Crl.side].

3. On the complaint of the petitioner, who is the Manager of a TASMAC Shop, a case in Crime No.275 of 2015, on the file of the respondent, came to be registered for offences under Sections 457 and 380 II(L)III(V) IPC. Investigation of the case has resulted in recovery of stolen liquor bottles. Thereupon, the petitioner has filed a petition in C.M.P.No.3969 of 2015 seeking relief under Section 451 Cr.P.C. The Court below, under orders dated 18.06.2015, while allowing such petition, has imposed the following conditions:

"1. I surety for Rs.1,50,000/-

2. To produce photo of C.P. Along with C.D. Ligibly.

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3. To file undertaking affidavit not to alienate, encumber the property and to produce property whenever it is required."

4. Learned counsel for petitioner submits that liquor bottles, return of which have been ordered are to be sold by TASMAC within a period of three months and the requirement of the petitioner filing an affidavit of undertaking not to alienate, encumber the property and to produce the same whenever required, will impair the petitioner carrying out his duties. It is further contended that as he is the Manager of the TASMAC shop, requiring him to produce a surety for the value of goods, is unreasonable.

5. Finding merits in the submission of learned counsel for petitioner, this Court would direct the Court below to effect return of liquor bottles to the petitioner:

(i) the Court below shall cause photographs of the liquor bottles to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of liquor bottles shall be dispensed with. Such photographs shall be attested by the Court Officer, photographer as also the petitioner to whom custody is to be handed over; and

(ii) the liquor bottles shall be handed over to the petitioner who shall be at liberty to deal with the same in such manner as considered appropriate.

With the above direction, this Criminal Revision is disposed of.

vsm

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Judicial Magistrate,
   Thiruvarur.

2. do thro the Chief Judicial Magistrate,
   Thiruvarur.

3. The Inspector of Police,
   City Police Station,
   Thiruvarur

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4. The Public Prosecutor,
   High Court, Madras.

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