

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.426 of 2010

M.Padma

.. Petitioner

Versus

The State rep.by
The Inspector of Police
Prohibition Enforcement Wing
Police Station, Tindivanam

... Respondent

Criminal Revision case filed under Sections 397 and 401 of Cr.P.C. against the order dated 05.04.2010 passed by the learned Judicial Magistrate No.2, Tindivanam in CrI.M.P.No.563 of 2010 in Crime No.258/2010.

For Petitioner : No appearance

For Respondent : Mr.V.Arul
Government Advocate (CrI.side)

ORDER

The petitioner has filed the above Criminal Revision Case challenging the order dated 05.04.2010 passed by the Court below in rejecting the application filed by the petitioner under Sections 451 and 457 of Cr.P.C. for return of car namely, Maruti Suzuki-Swift, bearing Registration No.KA-04 ME-4046.

2. The case of the petitioner is that the respondent-police seized the vehicle of the petitioner in connection with the case in Crime No.258 of 2010 on 25.03.2010 on the ground that the driver of the vehicle was carrying arrack bottles illegally and also had arrested the driver of the vehicle. Therefore, the petitioner filed a petition before the Court below under Sections 451 and 457 of the Criminal Procedure Code seeking return of the property. Since the same was dismissed, the petitioner has filed this revision case.

3. The main ground of attack made by the petitioner in this revision is that the Court below failed to take into account the fact that the vehicle was not confiscated and only

because the respondent-police has stated that steps have been taken for confiscation of the vehicle under Section 14(3) of the Tamil Nadu Prohibition Act, 1937, the Court below dismissed the said petition.

4. When the matter is taken up today for hearing, there was no representation for the petitioner. Hence, as per the judgment of the Hon'ble Supreme Court reported in (2013) 3 SCC 721 [K.S.Panduranga vs. State of Karnataka], the Criminal Revision Case is taken up for disposal on merits.

5. Learned Government Advocate (Criminal side) would only submit that since the vehicle has been sent for confiscation proceedings, no revision would lie and the petitioner has to approach only the appropriate authority, viz., the District Collector by way of an appeal. Therefore, he would pray for the dismissal of this revision.

6. On a perusal of the order passed by the Court below, it is seen that it had dismissed the petition for return of property only on the ground that confiscation proceedings have been initiated. When such proceedings are initiated no further order can be passed. Even if the petitioner is aggrieved of the said order, he has to approach only the Appellate Authority, viz., the District Collector by way of an appeal for release of the vehicle. Hence, no revision would lie.

7. It is also seen that this Court at the time of admission had ordered release of the vehicle by way of granting interim order. However, it is not known whether the petitioner has taken the vehicle back or not as per the said direction or whether at all the confiscation proceedings have been initiated, since there is no representation on behalf of the petitioner.

8. Therefore, this Court is of the view that this revision is not maintainable and only an appeal would lie as against the order passed by the Court below. If at all the petitioner is aggrieved, it is open to him to approach the Appellate Authority by way of an appeal for release of his vehicle, if not already released. It is also made clear that if any such appeal is filed, the Appellate Authority shall consider the same and pass appropriate orders by condoning the limitation period as the petitioner has approached this Court as early as in the year 2010 itself.

9. With the above observation, this Criminal Revision Case is disposed of.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

vj2

To

1. The Judicial Magistrate No.2, Tindivanam

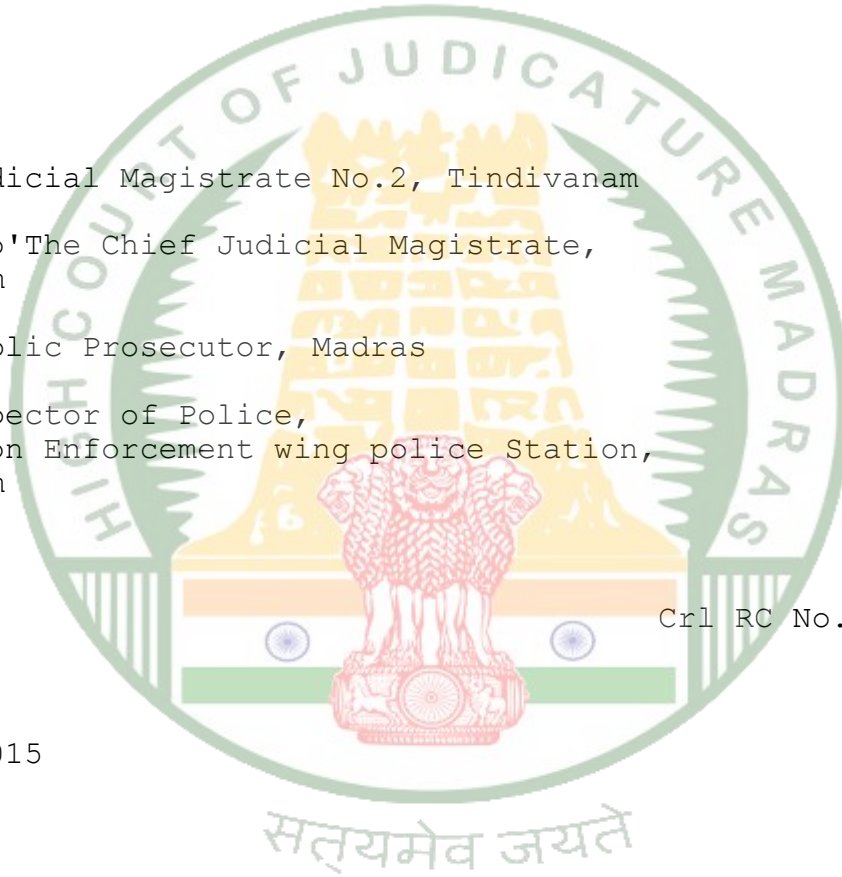
2.-do-Thro'The Chief Judicial Magistrate,
Villupuram

3. The Public Prosecutor, Madras

4.The Inspector of Police,
Prohibition Enforcement wing police Station,
Tindivanam

Crl RC No.426 of 2010

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