

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P.No.23303 of 2015

Venkatesan

...Petitioner

Vs

State rep. by
The Station House Officer,
P.E.W. Police Station,
Villupuram,
Villupuram District.

...Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the respondent police to produce the vehicle of the petitioner namely Chevrolet Car bearing Reg.No.PY.01 AV 5726 before the Judicial Magistrate Court No.II, Villupuram as per the order of the Judicial Magistrate Court No.II, Villupuram, dated 15.06.2015 in C.M.P.2310 of 2015.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.C.Emalias,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to direct the respondent police to produce the vehicle of the petitioner before the Judicial Magistrate Court No.II, as per order dated 15.06.2015 in C.M.P.No.2310 of 2015.

2. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor for the respondent.

3. It is seen that this petitioner's vehicle Chevrolet Car bearing Reg.No.PY.01 AV5726 is involved in Prohibition offence in Crime No.226 of 2015 and has been seized by the Prohibition Enforcement Wing, Villupuram. This petitioner filed a petition in C.M.P.2310 of 2015 before the learned Judicial Magistrate II, Villupuram for a direction to the respondent Police to produce the vehicle before the Court.

4.The respondent Police submitted his objections before the learned Judicial Magistrate stating that confiscation proceedings under Tamil Nadu Prohibition Act have commenced and therefore the vehicle cannot be produced. Despite his submissions, the learned Judicial Magistrate II, Villupuram, vide order dated 15.06.2015 has directed the Police to produce the vehicle within fifteen days before him.

5. In the considered opinion of this Court, the learned Judicial Magistrate, ought not to have passed such an order, since the confiscation proceedings are action in rem, as provided under Tamil Nadu Prohibition Act. Notice should have been served on the owner of the vehicle and only thereafter confiscation orders can be passed by the Authority. The Act also provides an appeal remedy before the Sessions Court. Therefore, the directions as prayed for by the petitioner cannot be granted. The petitioner is directed to take notice in the confiscation proceedings and place his case before the adjudicating authority for passing appropriate orders in accordance with law.

6. With the above directions, this Criminal Original Petition is closed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

ds

WEB COPY

To

1. The Station House Officer,
P.E.W. Police Station,
Villupuram,
Villupuram District.
2. The Public Prosecutor,
High Court, Madras.

1 CC to Mr.R. Sasikumar, Advocate SR.No. 50598

Cr1. O.P. No.23303 of 2015

PA (CO)
PSI (18.09.2015)



WEB COPY