



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.03.2015

CORAM:

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Cr1.R.C.(MD)No.535 of 2014

and

M.P(MD)No.1 of 2014

V.Rajan

..Petitioner/Respondent/Petitioner/
Owner of the Vehicle

Vs.

The State represented by
The Inspector of Police,
Samayapuram Police Station,
Tiruchirapalli District.
(Crime No.148 of 2014)

..Respondent/Petitioner/Respondent/
Complainant

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the entire records pertaining to the order passed by the learned Principal Sessions Judge, Tiruchirappalli in Criminal Revision Case No.21 of 2014 in Cr.M.P.No.3338 of 2014 vide his judgment dated 02.08.2014 and set aside the same and consequently direct the learned Judicial Magistrate No.III, Tiruchirapalli, Tiruchirappalli District to return the petitioner's vehicle namely Maruti Swift Dzire bearing its registration No.TN 75 C 0009 to the petitioner.

For Petitioner : Mr.R.Anand

For Respondent : Mr.C.Ramesh,

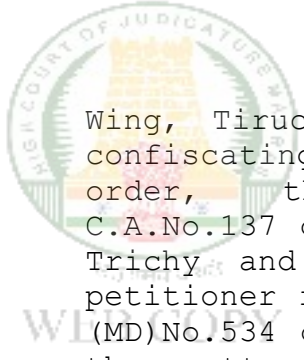
Additional Public Prosecutor

ORDER

By consent, the Criminal Revision itself is taken up for final disposal.

2. The petitioner is the owner of Maruti Swift Dzire car bearing Registration No. TN 75 C 0009 (Engine No.D13A1363942, Chasis No.MA3FKEB2S00238828) and it was involved in the commission of offences under Sections 279, 337, 304(A) of I.P.A and Section 4(1)(a) of Tamil Nadu Prohibition Act in Crime No.148 of 2014 registered by Samayanallur Police Station, Tiruchirappalli District.

3. The case of the prosecution is that the vehicle was driven by one Felix S/o.Mohandoss on 24.05.2014 from Chennai to Trichy and when it was nearing SRM Hospital at Irungalur, Tichy District, the vehicle driven by the said person dashed against one Yasim Banu, who died on the spot and caused injuries to the rider as well as pillion riders of the motor cycle bearing registration No.TN 48 U 8143 and also dashed against one Senchi and caused him injuries and since the said vehicle was said to have been contained some liquor bottles and the same was transported without proper licence or permit, confiscation proceedings were initiated and the Additional Superintendent of Police, Prohibition and Enforcement



Wing, Tiruchirappalli District, has passed the order dated 30.06.2014 confiscating the said vehicle and challenging the legality of the said order, the petitioner herein preferred an appeal in C.A.No.137 of 2014 on the file of the Court of Principal Sessions Judge, Trichy and it was also dismissed and aggrieved by the same, the petitioner filed revision before this Court in Crl.R.C (MD)No.534 of 2014. This Court vide order dated 29.01.2015 has remanded the matter for fresh adjudication. The petitioner has also filed Cr.M.P.No.3338 of 2014 under Section 451 Cr.P.C seeking interim custody of the vehicle stating among other things that it is a new car and since it is being parked in the open space subject to vagaries of weather and the petitioner is also willing to give undertaking for interim custody of the vehicle and the said petition was ordered and challenging the same, the respondent herein filed a revision before the Principal Sessions Court, Tiruchirappalli and the said Court vide order, dated 02.08.2014, has allowed the revision and directed the concerned respondent to proceed with the confiscation proceedings and aggrieved by the same, the present revision is filed.

4. The learned counsel appearing for the petitioner would submit that in the light of the order, dated 29.01.2015, passed by this Court in Crl.R.C(MD)No.534 of 2014, fresh adjudication is being made in the confiscation proceedings and there cannot be any impediment for ordering return of vehicle by way of interim custody and the petitioner is ready to abide by any condition to be imposed by this Court and also willing to co-operate with the respondent for expeditious disposal of the confiscation proceedings.

5. Per contra, the learned Additional Public Prosecutor would contend that the vehicle driven by one Felix was involved in a major accident and caused loss of human life as well as injuries to persons and on search, liquor bottles have been transported in the said vehicle without any valid licence or permit and in the light of the same, confiscation proceedings were initiated and order was passed and the same was confirmed by the lower appellate Court and in the revision, this Court set aside the same and remanded the matter for fresh adjudication and after remand, the revision petitioner is not extending his co-operation and seeking time.

6. This Court after hearing the rival submissions and upon perusal of the materials placed before it, is of the view that the impugned order passed by the Court below is to be set aside and the vehicle in question is to be returned to the revision petitioner by way of interim custody.

7. In the result, this revision is allowed and the impugned order, dated 02.08.2014, passed in Cr.M.P.No.3338 of 2014 by the learned Principal Sessions Judge, Tiruchirappalli, is set aside and the vehicle in question is directed to be returned to the petitioner by way of interim custody subject to following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) with one surety for the like sum to the satisfaction of the learned Judicial Magistrate No.III, Tiruchirappalli;

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(ii) The petitioner shall not alienate and encumber and alter the features of the vehicle;



(iii) The petitioner shall produce the vehicle as and when required by the respondent police; and

(iv) The petitioner shall also extend his maximum co-operation to the Additional Superintendent of Police, Prohibition and Enforcement Wing, Tiruchirappalli District for the expeditious disposal of the confiscation proceedings. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar

/True copy/

Sub Assistant Registrar

To

1. THE PRINCIPAL SESSIONS JUDGE, TIRUCHIRAPPALLI.

2. THE JUDICIAL MAGISTRATE NO.III, TIRUNCHIRAPPALLI,
TIRUCHIRAPPALLI DISTRICT.

3. -do-thro' THE CHIEF JUDICIAL MAGISTRATE, TIRUCHIRAPPALLI.

4. THE INSPECTOR OF POLICE, SAMAYAPURAM POLICE STATION,
TIRUCHIRAPPALLI DISTRICT.

5. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

Copy to: The Section Officer, Criminal Section,
Madurai Bench of Madras High Court, Madurai.

+1CC to M/s.R.Anand, Advocate in SR.14274

Cr1.R.C. (MD) NO.535 of 2014
and

M.P. (MD) No.1 of 2014
24.03.2015

pm

PBK 08/04/2015 ::3P-8C: