



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.03.2015

CORAM

WEB COPY **THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN**

Criminal Revision Case (MD)No.107 of 2015

Mujibhur Rahman

... Petitioner/Petitioner

Vs.

State,
rep. by the Inspector of Police,
Prohibition Enforcement Wing (PEW),
Pattukkottai,
Thanjavur District.
(Crime No.110 of 2015)

... Respondent/Complainant

Prayer : Revision filed under Section 397 read with Section 401 of the Code of Criminal Procedure, to call for the records of the learned Judicial Magistrate, Pattukkottai in Cr.M.P.No.1126 of 2015 dated 25.02.2015 and set aside the same and further direct the learned Judicial Magistrate, Pattukkottai to grant interim custody of vehicle viz., TATA Super ACE 475 TCICS BS III bearing Registration No.TN 49AS 3126 to the petitioner.

For Petitioner : Mr.S.Deenadhayalan

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

ORDER

The petitioner claims to be the owner of the vehicle viz., TATA Super ACE 475 TCICS BS III bearing Registration No.TN 49AS 3126. The said vehicle was said to have transported articles for manufacturing illicit arrack and it was seized during the night hours on 20.02.2015 and a case in Crime No.110 of 2015 was registered for the alleged commission of offences under Sections 4 (1)(g), 4(1)(a) r/w. 4(1-A) of Tamil Nadu Prohibition Act.

2. The petitioner filed Crl.M.P.No.1126 of 2015 under Section 451 Cr.P.C. praying for return of the vehicle by way of interim custody by contending that he is not arrayed as accused and without his knowledge the vehicle has been used for that purpose and since it is parked in the open place, its material value and utility is going down day by day and hence prays for return of the same, and also undertakes to abide by any condition imposed in this regard.



3. It was opposed by the prosecution by stating that the confiscation proceedings have already been initiated.

4. The trial Court has taken into consideration the nature and gravity of the offence and further, the confiscation proceeding is initiated, has dismissed the petition vide impugned order dated 25.02.2015 and challenging the same, the petitioner has filed this revision.

5. The learned counsel for the petitioner would submit that admittedly the petitioner is not arrayed as accused and the vehicle has been parked in the open place and on account of non utilization, its value and utility is going down day by day and further add that the petitioner is willing to abide by any condition imposed in that regard.

6. Per contra, Mr.C.Ramesh, learned Additional Public Prosecutor would submit that the confiscation proceedings have already been initiated and therefore, the vehicle cannot be returned by way of interim custody.

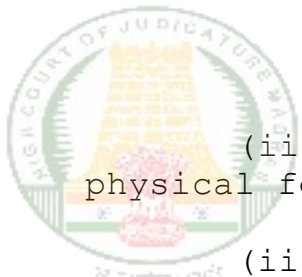
7. By way of reply, it is submitted by the learned counsel for the petitioner that he is yet to receive the notice regarding initiation of confiscation proceedings.

8. This Court has considered the rival submissions and also perused the available documents.

9. Admittedly, the petitioner is not arrayed as an accused and though confiscation proceedings have been initiated, it is not a bar for return of the vehicle by way of interim custody and the petitioner is also willing to abide by any condition imposed in this regard. The vehicle was seized on 20.02.2015 and parked in the open place, as rightly contended by the learned counsel for the petitioner. On account of non utilization and being parked in the open place, its value and utility would definitely come down and hence, there cannot be any impediment in ordering the return of the vehicle by way of interim custody.

10. In the result, this Criminal Revision Case is allowed and the impugned order dated 25.02.2015 passed in Cr.M.P.No.1126 of 2015 by the learned Judicial Magistrate, Pattukkottai, is set aside and the vehicle viz., TATA Super ACE 475 TCICS BS III bearing Registration No.TN 49AS 3126, is ordered to be returned to the petitioner, by way of interim custody, subject to the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with one surety for a like sum to the satisfaction of the learned Judicial Magistrate, Pattukkottai for return of the vehicle;



(ii) The petitioner shall not further encumber or alter the physical features or alienate the vehicle;

(iii) The petitioner shall also produce the Xerox copy of the documents relating to the vehicle and also produce the photograph of the said vehicle to Judicial Magistrate Court, Pattukkottai.

(iv) The petitioner shall produce the vehicle before the respondent police or before the Judicial Magistrate Court, Pattukkottai as and when required; and

(v) If the petitioner fails to comply with anyone of the above conditions, this revision shall stand automatically dismissed without any further reference to this Court.

Sd/-

Assistant Registrar(T & P)

/True Copy/

Sub-Assistant Registrar

To

1. THE JUDICIAL MAGISTRATE, PATTUKKOTTAI.
2. THE INSPECTOR OF POLICE, PROHIBITION ENFORCEMENT WING (PEW), PATTUKKOTTAI, THANJAVUR DISTRICT. CR. NO.110/2015.
3. THE CHIEF JUDICIAL MAGISTRATE, THANJAVUR @ KUMBAKONAM.
4. THE ADDL.PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1CC TO MR.S.DEENADHAYALAN, ADVOCATE, IN SR. NO.11452.

Criminal Revision Case (MD)No.107 of 2015
10.03.2015

raj2

msm 11.03.2015 p3/6c