



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: **11.03.2015**

WEB COPY

CORAM:

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

CRL.RC.(MD)No.51 of 2015

and

M.P.No.1 of 2015

P.Ramajayam

: Petitioner/Appellant

Vs.

The Additional Superintendent of Police,
District Police Office [Prohibition],
Tuticorin District,
Crime No.187 of 2014.

: Respondent/Respondent

PRAYER: Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 12.12.2014 made in Crl.A.No.55 of 2014 in Na.Ka.02.Ku.Ka.Ka./Ma.Vi.THUDI/14, dated 11.08.2014 in Cr.M.P.No.2142 of 2014 on the file of the Judicial Magistrate Court, No.I, Thoothukudi in C.C.No.185 of 2014 and set aside the same as illegal and allow the above revision.

For Petitioner

: Mr.S.Muthukumar

For Respondent

: Mr.C.Ramesh

Additional Public Prosecutor

O R D E R

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

2. The case of the respondent is that PIGGIO GREAVES AUTO, bearing Registration No.TN-69-M-3487, was used by the son of the petitioner herein, viz., R.Ponraj, to transport liquor bottles and thereby committed the prohibition offence, on 24.04.2014 and in this regard, a case in Crime No.187 of 2014 was registered for the commission of offence under Sections 4(1)(a) and 4(1)(i) of the Tamil Nadu Prohibition Act, 1937. The confiscation proceedings have also been initiated. The petitioner filed Cr.M.P.No.2142 of 2014 for return of the vehicle and the same was ordered on 14.05.2014, and the vehicle was handed over to the petitioner, by way of interim custody, but, at the same time, the vehicle was directed to be handed over to the respondent police for the purpose of determining the market value in connection with the



confiscation proceedings. The Jurisdictional Magistrate has issued notice on 04.06.2014, directing the petitioner herein to hand over the vehicle to the respondent police and the said notice was put to challenge in CrI.RC.No.292 of 2014, by contending that it will prejudice to his interest. This Court, vide order dated 19.06.2014, has modified the order passed by the Judicial Magistrate concerned, by way of notice dated 04.06.2014 and directed that the petitioner shall produce the vehicle before the authorities concerned as and when required by the police for the purpose of valuation of the vehicle at his own cost and he was permitted to keep custody of the vehicle during the confiscation proceedings and thereafter, the vehicle was valued and in view of the confiscation, the petitioner was directed to pay the market value of Rs.1,35,000/- and get back the vehicle with a further condition that if the petitioner fails to pay the said amount, the vehicle will be brought for public auction. Challenging the said order, the petitioner has filed CrI.A.No.55 of 2014, on the file of the Court of Additional Sessions Judge, Thoothukudi and the Lower Appellate Court has dismissed the appeal, vide order dated 12.12.2014, holding that no reasons exist warranting interference. The petitioner, challenging the legality of the order passed by the Lower Court Appellate Court, has filed the present Criminal Revision Case.

3. The learned counsel appearing for the petitioner would submit that a sum of Rs.1,35,000/-, fixed towards valuation of the vehicle is very much on the higher side and would further submit that the vehicle was manufactured in the year 2008 and now, nearly, seven years had lapsed and applying the provisions of the Income Tax Act, by awarding depreciation, the value of the vehicle, would be Rs.62,189/- and prays for modification of the said order.

4. Per contra, Mr.C.Ramesh, learned Additional Public Prosecutor, would contend that the respondent had gone into the fitness of the vehicle, other relevant factors and correctly found that the value of the vehicle would be Rs.1,35,000/- and if the petitioner wants return of the vehicle, he may pay the said amount and get back the vehicle. It is also contended by the learned Additional Public Prosecutor that the value of the vehicle for the insurance purpose would be a sum of Rs.70,000/-.

5. This Court, after considering the rival submissions and upon perusal of the typed set of documents, is of the view that the value of Rs.1,35,000/-, fixed by the respondent, as confirmed by the Lower Appellate Court, requires modification. Admittedly, the petitioner is not arrayed as an accused and his son is arrayed as an accused. <https://hcservices.courts.gov.in/hcservlet> and there is no dispute that the vehicle was manufactured in the year 2008 and now, seven years had lapsed. No doubt, the vehicle in question has been valued by a Committee



constituted for the said purpose. But, it is an admitted fact that the vehicle was manufactured in the year 2008 and definitely, the value of the vehicle would have gone down, considerably. This Court has perused the calculation memo submitted by the petitioner, wherein the provisions of Income Tax Act have been applied and according to the calculation memo, the value of the vehicle is Rs.62,189/-. However, this Court, taking into consideration of the fact that the Insurance declared that the value of the vehicle would be Rs.70,000/-, as contended by the learned Additional Public Prosecutor for the respondent, is of the view that the vehicle can be ordered to be released in favour of the petitioner, by directing him to deposit a sum of Rs.75,000/- to the respondent.

6. In the result, this Criminal Revision Case is partly allowed and the impugned order passed by the respondent, dated 11.08.2014, as confirmed by the Lower Appellate Court, dated 12.12.2014, made in Crl.A.No.55 of 2014 is modified and the petitioner is directed to deposit a sum of Rs.75,000/- to the credit of the respondent, within a period of one month from the date of receipt of a copy of this order.

7. It is brought to the knowledge of this Court that the vehicle in question is in the custody of the petitioner and till such time he makes the payment, as ordered by this Court, he shall not alienate or encumber the vehicle and shall produce the vehicle as and when required by the respondent. Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(Writs)

/True Copy/

Sub Assistant Registrar

To

- 1.The Additional Sessions Judge, Thoothukudi.
- 2.The Judicial Magistrate, No.I, Thoothukudi.
- 3.The Additional Superintendent of Police,
District Police Office [Prohibition],
Tuticorin District,
- 4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

Nb

AA/07.04.2015/3p- 5c/

ORDER MADE IN
CRL.RC. (MD) No.51 of 2015
DATED - 11.03.2015