

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2016

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.OP No.12529 of 2016

A.R.Amutha

.. Petitioner

Vs

1.State rep. by its
Inspector of Police,
Prohibition and Enforcement Wing,
Dharapuram,
Tiruppur District.

2.M.Sathishkumar

.. Respondents

Prayer:- Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the return endorsement in CMP.No.3692 of 2016 by the Judicial Magistrate, Udumalpet dated 30.05.2016 and consequently direct the first respondent to return the vehicle Bolero ZLX 2WD 7 seater AC & PS BS3 bearing Engine No.GPF4L 78410 Chassis No.MA1XX2 GPKF5M39089 whose in connection with Cr.No.296/2016 on the file of the Inspector of Police, Prohibition and Enforcement Wing, Dharapuram, Tiruppur District for interim custody of the petitioner, pending trial.

For Petitioner : Mr.P.Saravanan

For 1st Respondent : Mr.C.Emalias, APP

ORDER

The petitioner has filed this Criminal Original Petition to set aside the return endorsement made in CMP.No.3692 of 2016 by the Judicial Magistrate, Udumalpet on 30.05.2016 and consequently direct the first respondent to return the vehicle viz., Bolero bearing Engine No.GPF4L 78410 Chassis No.MA1XX2 GPKF5M39089, which was seized by the police in connection with Cr.No.296/2016, for her interim custody, pending trial.

2. The case of the petitioner is that her new vehicle Bolero, which was not registered, was seized by the police in connection with Cr.No.296/2016 for the offence under Section 4 (1)(a) of the Tamil Nadu Prohibition Act. She filed a petition

in CMP.No.3692/2016 under section 451 Cr.P.C before the learned Judicial Magistrate No.I, Udumalpet, for return of the vehicle and the petition was returned on 30.05.2016 on the ground that the very property was not produced by the police. Challenging the same, the petitioner has filed the present petition under section 482 Cr.P.C.

3. According to the petitioner, the adjudication proceedings for confiscation of the vehicle has been initiated and a show cause notice has also been issued to her.

4. Learned counsel for the petitioner submitted that during the pendency of the confiscation proceedings, there is no bar for the Court to return the vehicle.

5. In the considered opinion of this Court, even the vehicle has not been produced before the learned Judicial Magistrate No.I, Udumalpet, the present petition under Section 482 Cr.P.C is not maintainable. However, it is open to the petitioner to file an application under Section 457 Cr.P.C before the learned Judicial Magistrate, if she is so advised. In the event of the petitioner filing such a petition, the learned Judicial Magistrate No.I, Udumalpet is directed to follow the law laid down by a Division Bench of this Court in David v. Shakthivel [2010-1-LW (Crl.)129].

6. With the above observation, the criminal original petition is disposed of.
rk

s/d-
Assistant Registrar (CS-VI)

True Copy

Sub-Assistant Registrar

To

1.The Inspector of Police,
Prohibition and Enforcement Wing,
Dharapuram,
Tiruppur District.

2.The Judicial Magistrate No.I, Udumalpet.

3.The Public Prosecutor,
High court, Madras.

+ 1 cc to M/s.P.Saravanan, Advocate SR 33107

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