

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 28.01.2016

CORAM

THE HONOURABLE MR.JUSTICE C.T.SELVAM

Crl.R.C.No.110 of 2016

Smt.M.Sivagami
W/o.Mohan

.. Petitioner

vs.

The State through the
Inspector of Police
Hudco Police Station
(Cr.No.732 of 2015)

.. Respondent

Criminal Revision filed under section 397 and 401 Cr.P.C. to set aside the order made in Crl.M.P.No.6643 of 2015 in Cr.No.732 of 2015 on the file of the Judicial Magistrate No.II, Hosur dated 11.01.2016 and to pass an order of return of the property of 150 bags Tobacco as seized under Cr.No.732 of 2015 on the file of the respondent pending before the learned Judicial Magistrate II, Hosur.

For Petitioner : Mr.V.Govindaraj

For Respondent : Mr.C.Iyyapparaj
Government Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned Judicial Magistrate II, Hosur passed in Crl.M.P.No.6643 of 2015 dated 11.01.2016, rejecting the petition filed for return of vehicle and 150 bags of Tobacco.

2. The respondent has seized a lorry bearing Registration No.TN-24-Q-1197 belonging to the petitioner in connection with the case registered in Cr.No.732 of 2015 on its file for offences under Sections 180,187 and 328 IPC and Section 7 of Tamil Nadu Prohibition of Smoking and Spitting Act, 2003. The petitioner has moved Crl.M.P.No.6643 of 2015 before the learned Judicial Magistrate II, Hosur, seeking return of the vehicle and 150 bags of Tobacco. Such petition came to be dismissed under orders of the Court below dated 11.01.2016 and hence, this revision.

3. Heard learned counsel for the petitioner and learned Additional Public Prosecutor.

4. Learned counsel for the petitioner would seek to impress upon this Court that a false case stands foisted upon the petitioner.

5. Learned Government Advocate (Crl.side) submits that action towards confiscation is now being initiated.

6. In the circumstances above stated, this Court would set aside the order of the Court below negating the return of vehicle and 150 bags of Tobacco. This court is of the considered view that no prejudice would be caused to the prosecution in the event of granting the relief of interim custody of the vehicle to the petitioner. Learned Judicial Magistrate II, Hosur, is directed to return the vehicle viz., Lorry bearing No.TN-24-Q-1197 to the petitioner on fulfilling the following conditions:

i)The Court below shall cause photographs of the vehicle and the goods (Tobacco) to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle and the goods shall be dispensed with.

ii)The vehicle and the goods shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

7. The above order is not determinant of the ownership or other rights in respect of the vehicle.

8. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate II, Hosur, passed in C.M.P.No.6643 of 2015 dated 11.01.2016 is set aside.

सत्यमेव जयते
Sd/-

Assistant Registrar(VI)

//True Copy//

Sub Assistant Registrar

gpa

To

1. The Judicial Magistrate II
Hosur.

2. -do- Through The Chief Judicial Magistrate,
Krishnagiri.

3. The Inspector of Police, Hudco Police Station,

4. The Public Prosecutor
High Court, Madras.

+ 1 cc to Mr.R. Venkatesh, Advocate SR.5294

CrI.R.C.No.110 of 2016

KSJ(CO)
Eu 09.02.16



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