

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2016

CORAM :

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1379 of 2016

Murugadoss

.. Petitioner/Owner of the Vehicle

Vs.

The State by Inspector of Police
Prohibition & Excise Wing
Kottakuppam Police Station
Villupuram District.
Cr.No.649 of 2016

.. Respondent/Complainant

Criminal Revision filed under Section 397 and 401 Cr.P.C.
praying to call for the records on the file of the learned
District Munsif cum Judicial Magistrate, Vanur in CMP.No.999 of
2016 dated 08.11.2016 and set aside the order.

For Petitioner : Mr.N.R.Elango, Sr.Counsel
for Mr.M.Guruprasad.

For Respondent : Mr.M.Mohammed Riyaz
Govt. Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned District
Munsif cum Judicial Magistrate, Vanur made in CMP.No.999 of 2016
dated 08.11.2016, rejecting the petition filed for return of
vehicle.

2.The vehicle belonging to the petitioner was seized on the
allegations that the same was used in commission of offence
under Section 4(1)(aaa) of the Tamil Nadu Prohibition Act. The
petitioner sought return of the vehicle in CMP.No.999 of 2016
which was dismissed by the Magistrate, giving rise to this
revision.

3.Heard Mr.N.R.Elango, learned Senior Counsel appearing for
the petitioner and Mr.Mohammed learned Riyaz, Government
Advocate (Crl.side) for respondent.

4.Learned senior counsel for petitioner submitted that the Court below has in the order dated 08.11.2016, dismissed the petition seeking return of the vehicle stating that the confiscation under Tamil Nadu Prohibition Act had been initiated and confiscation proceedings was pending.

5.Learned senior counsel further stated that presently it is the case of the respondent police that an order of confiscation of the vehicle had been passed on 25.10.2016. Learned senior counsel submitted that no notice of initiation of confiscation proceedings had been served on the petitioner and it is now informed that the confiscation proceedings had been completed on 25.10.2016, which would affect the petitioner in two ways (i)the present revision seeking to set aside the order of the Court below and seeking a direction for return of the vehicle is rendered infructuous and (ii)the petitioner would not be able to challenge the alleged order of confiscation passed on 25.10.2016 as any challenge presently would be beyond time.

6.The order of confiscation dated 25.10.2016 refers to notice issued on 05.10.2016 under the third reference therein. The communication of the Additional Superintendent of Police allegedly dated 05.10.2016 referred to in body of the order speaks of notice having been issued to the petitioner on 14.10.2016 seeking a reply within 7 days. Pertinently, no acknowledgment of the petitioner regards receipt of any notice forms part of the referrals. Under such circumstances, this Court would set aside the order of confiscation passed by the Additional Superintendent of Police in Na.Ka.No.361/confiscation/Koo.Kaa.Ka/vizhu/16 dated 25.10.2016 and direct issuance of fresh notice of confiscation proceedings. The authority may on causing notice to the petitioner, proceed further in accordance with law. Pending any further action on the part of the authority, the vehicle shall be returned to the petitioner.

7.In the circumstances above stated, this Court would set aside the order of the Court below negating relief of return of vehicle. Learned District Munsif-cum-Judicial Magistrate, Vanur, is directed to return the vehicle viz., Toyota Fortuner Car bearing registration No.TN19-M-3335 to petitioner on fulfilling the following conditions:

- i.the petitioner shall establish the ownership of the vehicle by producing necessary original certificates before the respondent police and as well as before the learned Magistrate and the learned Magistrate on verification, shall retain the original documents, if necessary and cause forwarding thereof to the confiscating authority in the event of confiscation;

ii.the petitioner shall not alienate the vehicle in any manner till adjudication is over;

iii.the petitioner shall execute a personal bond in a sum of Rs.10,000/- (Rupees ten thousand only) to the satisfaction of learned District Munsif-cum-Judicial Magistrate, Vanur; and

iv.the petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the confiscating authority.

8.In the event of confiscation, the petitioner's rights shall be governed by the provisions of T.N.Prohibition Act.

9.The Criminal Revision is disposed of with the above direction.

tsh

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

- 1.The District Munsif-cum-Judicial Magistrate, Vanur.
2. The Inspector of Police, Prohibition & Excise Wing Kottakuppam Police Station, Villupuram District. Cr.No.649 of 2016.
- 3.The Public Prosecutor, High Court, Chennai.

+ 3 ccs to Mr.M.Guruprasad, Advocate Sr 72719

KR/20/12

WEB COPY

Cr1.R.C.No.1379 of 2016