

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATE: 05.04.2016

CORAM

THE HON'BLE Dr.JUSTICE P.DEVADASS

Criminal Revision Case No.188 of 2016

H.N.Manjunath

.. Petitioner

vs.

State represented by
Inspector of Police
PEW Police
Hosur,
Krishnagiri District.

... Respondent

Criminal Revision against the order dated 27.01.2016 made in Crl.M.P.No.26 of 2016 on the file of learned Judicial Magistrate No.II, Hosur and to direct the court below to return the property in Crime No.9 of 2016 on the file of respondent.

For petitioner : Mr.M.P.Saravanan

For respondent : Mr.V.Arul
Government Advocate (Crl. Side)

ORDER

The petitioner is a third party, because he is not an accused in this case. He sought for interim custody of his TATA LMV Car (Innova) bearing registration No. KA-02-MK-9118 in Crl.M.P.No.26 of 2016, which was dismissed by the learned Judicial Magistrate No.II, Hosur, Krishnagiri District on the ground that the property is liable for confiscation.

2. As per the prosecution version, in a case registered for an offence under the Tamil Nadu Prohibition Act, an Innova Car is intercepted and it was found containing 18 beer bottles and 3 brandy bottles of Karnataka make without any licence or authorisation to carry the contraband.

3. The learned counsel for the petitioner submits that the petitioner is not aware of his vehicle being used in the commission of the offence. In such circumstances, confiscating his vehicle is against law.

4. On the other hand, the learned Government Advocate (Cr1. Side) submits that as the case property is involved in the Prohibition Act case, the respondent is entitled to confiscate the car.

5. I have considered the rival submissions, perused the impugned order.

6. In these type of cases, owner of the property/car may not be an accused. But if there are materials to show that he is aware of the vehicle being used in the commission of offences, then the vehicle will be liable for confiscation. However, when the name of the vehicle owner appears from the vehicle records, the officer concerned is bound to hear him by issuing notice and adjudicate the culpability of the vehicle owner in placing his vehicle in the hands of the accused either for costs or free of costs. Now in this case, notice also has been issued to the petitioner.

7. The learned counsel for the petitioner submits that the petitioner will participate in the confiscation proceedings initiated by the respondent and he will put forth his views and also produce the materials. In such circumstances, the interim custody of the car may be given on the terms and conditions of the Court.

8. In the circumstances above stated, this Court would set aside the order of the Court below negating the return of vehicle. 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 No.II, Hosur, Krishnagiri District, is directed to return the vehicle viz., TATA LMV Car (Innova) bearing registration No. KA-02-MK-9118 to the 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 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

iv) The return of vehicle, however, is subject to confiscation proceedings pending before the appropriate authority. In the event of confiscation, the petitioner's rights shall be governed by the provisions of the Tamil Nadu Prohibition Act.

9. This Criminal Revision is allowed. The order of the learned Judicial Magistrate No.II, Hosur, Krishnagiri District, passed in Crl.M.P.26 of 2016 on 27.01.2016 is set aside.

-s/d-

Assistant Registrar (CS-II)

True Copy

Sub-Assistant Registrar

mra

Copy to

1. The Judicial Magistrate No.II
Hosur, Krishnagiri District.
2. The Government Advocate (Crl. Side)
High Court, Madras.
3. The Additional Superintendent of Police
PEW, Krishnagiri.
4. The Inspector of Police
PEW Police
Hosur, Krishnagiri District.

+1 cc to Mr.M.P.Saravanan Advocate sr.22139/16

Crl.Revision Case No.188 of 2016

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