

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2016

CORAM :

THE HONOURABLE MS.JUSTICE R.MALA

Cr1.O.P.Nos.30318 & 30319 of 2015

Cr1.O.P.No.30318 of 2015

M.Chandrasekar
S/o.P.Manian

... Petitioner/Petitioner/Accused

Vs.

The State by
Inspector of Police
Prohibition Department
Gopichettypalayam P.S.
(Cr.NO.846/2015)

... Respondent/Respondent/Complainant

Prayer:

Petition filed under Section 482 of Cr.P.C. to direct the respondent to produce the Petitioner's vehicle MARUTHI ESTEEM registered as TN-39-AE-3345 before the Judicial Magistrate, Sathyamangalam.

Cr1.O.P.No.30319 of 2015

M.Chandrasekar
S/o.P.Manian

... Petitioner/Petitioner/Accused

Vs.

The State by
Inspector of Police
Prohibition Department
Gopichettypalayam P.S.
(Cr.No.846/15)

... Respondent/Respondent/Complainant

Prayer:

Petition filed under Section 482 of Cr.P.C. to direct the Judicial Magistrate, Sathyamangalam to take the cognizance and dispose the same on merits in CMP.No.6974 of 2015.

For Petitioner
in both OP's: Mr.M.Easan

For Respondent
in both OP's: Mr.C.Emalias,
Additional Public Prosecutor

C O M M O N O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent.

2. Criminal Original Petition No.30318 of 2015 has been filed by the petitioner seeking for a direction to the respondent to produce the Petitioner's vehicle MARUTHI ESTEEM registered as TN-39-AE-3345 before the Judicial Magistrate, Sathyamangalam.

3. Criminal Original Petition No.30319 of 2015 has been filed by the petitioner seeking for a direction to the Judicial Magistrate, Sathyamangalam to take the cognizance and dispose the same on merits in CMP.No.6974 of 2015.

4. The learned counsel for the petitioner would submit that the petitioner's vehicle has been seized by the respondent police on 13.11.2005 at 11.00 A.M., as though the vehicle was used for transporting liquor. He would further submit that even though a case has been registered in Crime No.846 of 2015 for the offence punishable under Section 4(1)(a) of the TNP Act, the vehicle was not produced before the Court. Since the vehicle was kept in the police station, it is exposed to sun and rain which would deteriorate the condition of the vehicle and hence, the petitioner filed an application under Section 451 & 457 Cr.P.C for return of interim custody of the vehicle till the disposal of the case. However, the said application was returned stating that

the confiscation proceedings had already been initiated and hence, the petitioner had to approach the authority concerned. So, the petitioner was constrained to file these petitions. Further, the learned counsel for the petitioner would submit that the petitioner had not received any notice for the confiscation proceedings. Hence, the learned counsel for the petitioner prayed for ordering the petitions.

5. Resisting the same, the learned Additional Public Prosecutor appearing for the respondent would submit that on 13.11.2015, the vehicle was used for transporting liquor without proper license and hence, a case has been registered in Crime No.846 of 2015 under Section 4(1)(a) of the TNP Act. The witnesses were already examined and the material objects were also forwarded to the Court. Further, confiscation proceedings was initiated in respect of the vehicle in question.

6. During the course of the argument, the learned Additional Public Prosecutor would submit that notice regarding the initiation of the confiscation proceedings has been served on the petitioner on 30.12.2015 and hence, the learned Additional Public Prosecutor prayed for dismissal of the petitions.

7. Considered the rival submissions made by both sides and perused the typed set of papers.

8. The petitioner is facing criminal proceedings in Crime No.846 of 2015 for the offences punishable under Section 4(1)(a) of the TNP Act for the alleged transportation of the liquor. After the registration of the case, the petitioner was arrested and later enlarged on bail. Now, the grievance of the petitioner is that even though the other material objects were produced before the Court, the vehicle used for transporting the liquor was not produced. But according to the learned Additional Public Prosecutor, the confiscation proceedings had already been initiated.

9. The learned counsel for the petitioner relied upon the decision reported in 2012 CRI. L.J.461, Sakthidevi v. State, wherein it was held that merely because the confiscation proceedings is pending, the same cannot be a reason for dismissing the application for interim custody. There is no quarrel over the said proposition. But, the above citation is not applicable to the facts of the present case because in the above

decision, the petitioner who is the owner of the vehicle is not an accused.

10. Considering the facts and circumstances of the instant case, the respondent/police is directed to complete the confiscation proceedings within a period of one month from the date of receipt of a copy of this order. Further, the Judicial Magistrate, Sathyamangalam is directed to consider the application in CMP.No.6974 of 2015, if it is otherwise in order and dispose of the same in accordance with law, purely on merits.

11. These Criminal Original Petitions are disposed of accordingly.

Sd/-

Assistant Registrar(As)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate, Sathyamangalam.
2. -d- Thro' The Chief Judicial Magistrate, Erode District.
3. The Inspector of Police Prohibition Department Gopichettypalayam P.S.
4. The Additional Public Prosecutor High Court, Chennai.

+ 2 ccs to Mr. M. Easan, Advocate sR.9685 & 9686

CrI.O.P.Nos.30318 &
30319 of 2015

MSM(CO)

Eu 26.02.16