

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.01.2016

CORAM

THE HON'BLE Mr. JUSTICE R.MAHADEVAN

W.P.No.40295 of 2015

R. Shanmugam

...Petitioner

Vs

1. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Villupuram District,
Villupuram.

2. The Inspector of Police,
Prohibition Enforcement Wing,
Gobichettipalayam,
Erode District.

... Respondents

Petition filed under Article 226 of The Constitution of India praying for issuance of Writ of Certiorarified Mandamus to call for the entire records relating to the order of the 1st respondent in Na.Ka.No.320.Prohibition/Ku.Kaa.Ka/Villu dated 12.10.2015 on the file of the 1st respondent and quash the same and consequently direct the respondents to hand over the Tevera car bearing registration No.TN-38-AL-8395 to the petitioner.

For Petitioner .. Mr.R.P. Murugan Raja

For Respondents ... Mr.R.M. Muthukumar
Government Advocate

O R D E R

The petitioner has filed the present Writ Petition challenging the impugned order passed by the 1st respondent, dated 12.10.2015 and consequently direct the respondents to hand over the Tevera Car bearing Registration No.TN-38-AL-8395 to him.

2.The petitioner states that he is the owner of the Tevera car bearing Registration No.TN-38-AL-8395, which was intercepted by the respondents on 15.9.2015 and liquor bottles were seized by them from the vehicle. In connection with the

said incident, a complaint came to be registered in Crime No.220 of 2015, on the file of the second respondent under Section 4(1) (aaa) of Tamilnadu Prohibition act, 1937. The petitioner had also filed C.M.P.No.1441 of 2015, on the file of learned Judicial Magistrate, Vannur for return of the vehicle and the same has ordered on 12.10.2015, as against which the first respondent has filed Criminal Revision, which is pending before the District Court, Villupuram. The Second respondent without complying with the orders of the Court seems to have recommended for confiscation of the vehicle. On the basis of the recommendation, the first respondent issued notice intimating that there is a proposal to confiscate the vehicle and sought for explanation from the petitioner. The petitioner had also submitted the explanation. But, without conducting any personal enquiry and not recording any statement from the petitioner the first respondent passed the order of confiscation.

3. Heard Mr.R.P.Murugan Raja, learned counsel appearing for the petitioner and Mr. R.M. Muthukumar, learned Government Advocate appearing for the respondents.

4. The learned counsel for the petitioner submitted that notice was issued on 27.09.2015 with regard to the confiscation of the vehicle for which the petitioner submitted a detailed representation on 14.10.2015. In the meanwhile communication dated 12.10.2015 was issued at a later date, wherein there is no reference with regard to the explanation given by the petitioner. Hence the learned Counsel prayed that the same be considered by the respondents before passing any further orders.

5. Considering the facts and circumstances of the case and also the submissions made by the learned counsel for the petitioner, the first respondent is directed to consider the explanation submitted by the petitioner, dated 14.10.2015, on merits and in accordance with law, within a period of four weeks from the date of receipt of a copy of this order, before proceeding further.

This Writ Petition is disposed of with the above directions. No costs. Consequently, connected Miscellaneous Petition is closed.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Villupuram District,
Villupuram.
2. The Inspector of Police,
Prohibition Enforcement Wing,
Gobichettipalayam,
Erode District.

+1cc to Mr.R.P.Murugan Raja, Advocate, S.R.No.5229
+1cc to the Government Pleader, S.R.No.5022

W.P.No.40295 of 2015

tej (CO)
srg (16/02/2016)



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