

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED : 17.08.2017****CORAM****THE HONOURABLE MR.JUSTICE R. SURESH KUMAR****Crl.RC.No.1056 of 2017**

Kokila

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Petitioner

-Vs-

1.State rep.by
The Inspector of Police,
Guduvancherry Police Station,
Guduvancherry,
Chennai.

2.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Kanchipuram District.

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Respondents

Criminal Revision Case is filed under Section 397 and Section 401 of the Code of Criminal Procedure to call for the records and to set aside the order passed by the learned Judicial Magistrate No.II, Chengalpattu, in Crl.M.P.No.1840 of 2017 dated 05.07.2017 and to return the Chevrolet Tourist Maxi Cab, bearing Registration No.TN-21-BZ-3397 to the custody of the petitioner.

For Petitioner : Mr.P.K.Ganesh

For Respondents : Mr.C.Iyyapparaj,
Additional Public Prosecutor

JUDGMENT

This Criminal Revision Case has been filed against the order passed by the learned Judicial Magistrate No.II, Chengalpattu, in Crl.M.P.No.1840 of 2017 dated 05.07.2017.

2.The petitioner claims that she is the owner of the Tourist Maxi Cab Car of Chevrolet, bearing Registration No.TN-21-BZ-3397. The said vehicle was seized on 20.05.2017, after interception by the respondent Police for the alleged offence under Section 4(1)(a) of Tamil Nadu Prohibition Act. Since the respondent police intended to confiscate the said vehicle under Section 14(4) of the said Act, notice to that effect has already been issued and the said vehicle has not been entrusted to the concerned Court and the vehicle is still in the custody of the respondent.

3.The case of the petitioner is that she is the owner of the vehicle and she is no way connected with regard to the alleged offence, wherein the vehicle has allegedly been involved and because of the seizure, if the vehicle has been kept idle, it will get exposed in sun light and rain and certainly, the value of the motor vehicle would

get diminished. Therefore, the petitioner had moved a petition under Section 451 read with 457 of the Code of Criminal Procedure for interim custody of the vehicle.

4.The said petition has been rejected by the trial Court, as against which, the present Revision has been filed.

5.I have heard Mr.P.K.Ganesh, learned counsel appearing for the petitioner as well as Mr.C.Iyapparaj, learned Additional Public Prosecutor appearing for the respondents.

6.On instructions from the respondents, the learned Additional Public Prosecutor has stated that though an action was initiated to confiscate the vehicle and notice to that effect was issued, subsequently, the vehicle has not been confiscated or the process of confiscation of the vehicle has not been completed.

7.The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle and she is no way connected with the alleged offence said to have been committed by the accused and because of which, the vehicle in question has been seized by the respondent police and therefore, if the said vehicle is kept idle

for some more time, definitely, the value of the vehicle will get diminished, without due care and diligence. The petitioner is struggling a lot without plying the vehicle, which is the main source of income of her family. Therefore, the learned counsel for the petitioner submit that the vehicle can be released for interim custody of the petitioner, who is the owner of the vehicle, on some reasonable conditions.

8.I have considered the said submissions made by both sides.

9.As has been pointed out by the learned counsel appearing for the petitioner, if the vehicle is kept idle and is exposed to sunlight and rain, without due care and diligence, certainly, the property being the motor vehicle will get repaired and by thus, the value of the vehicle also would get considerably be diminished, instead the vehicle is given for interim custody to the petitioner, who is the owner of the vehicle, as no other person claimed the said ownership of the vehicle, with conditions, no prejudice will be caused to the respondent, as the learned Additional Public Prosecutor has submitted that the vehicle so far has not been confiscated.

10. Considering the said circumstances and facts of the case, the following orders are passed in this Revision case.

(1) The vehicle in question i.e., Tourist Maxi Cab Car (Chevrolet) with Registration No. TN-21-BZ-3397, shall be given interim custody of the petitioner on condition that the petitioner shall execute a property security worth about Rs.5,00,000/- (Rupees five lakhs only) to the satisfaction of the learned Judicial Magistrate No.II, Chengalpattu, within a period of two weeks from the date of receipt of a copy of this order.

(2) There shall be a further condition that the petitioner shall not alter or tinker the vehicle or even carrying out any repair, without getting appropriate orders from the trial Court.

(3) The petitioner shall not pledge or sell the vehicle till the completion of the trial and on further condition that the petitioner shall produce the vehicle either before the trial Court or before the respondent police at least once in two months on the first working day of such month between 10.00 A.M. to 05.00 PM.

With these conditions, the vehicle shall be released for interim custody to the petitioner and accordingly, the impugned order is set aside and the Criminal Revision Case is disposed of, with the above terms.

17.08.2017

Internet : Yes
Index : yes/No

mps

To

1.The Judicial Magistrate No.II,
Chengalpattu.

2.The Inspector of Police,
Guduvancherry Police Station,
Guduvancherry,
Chennai.

3.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Kanchipuram District.

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R. SURESH KUMAR, J,

mps



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