

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 12.06.2017

CORAM

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.No.768 of 2017

M.Devaki ... Petitioner/Petitioner

/vs/

State: rep. by
The Inspector of Police,
P.E.W. Chengalpattu Police Station,
Kancheepuram District.
(Crime No.171 of 2017). ... Respondent/Respondent

Prayer: Criminal Revision filed under sections 397 read with 401 of Criminal Procedure Code to set aside the order dated 30.05.2017 made in Crl.M.P.No.1433 of 2017 on the file of Judicial Magistrate II, Chengalpattu, Kancheepuram District.

For Petitioner : Mr.R.Sasikumar

For Respondent 1 : Mr.R.Ravichandran,
Government Advocate (Crl. Side)

O R D E R

Challenging the order, dismissing the petitioner's application in Crl.M.P.No.1433 of 2017 passed by the learned Judicial Magistrate II, Chengalpattu, Kancheepuram District, dated 30.05.2017, the present Criminal Revision has been filed.

2. The petitioner claiming to be owner of the vehicle bearing Registration No.TN 19 Z 939, which has been seized by the respondent police in Crime No.171 of 2017 for the offences under Sections 4(1)(aaa), 4(1-A) TNP Act read with 7 & 11 of RS Rules 2000 for transporting Indian made foreign liquor from Pondicherry to Tamil Nadu, in which the petitioner's son was

also involved. Subsequently, she filed an application in CrI.M.P.No.1433 of 2017, seeking return of the vehicle. The court below, dismissed the said application stating that the respondent police are taking steps to initiate proceedings for confiscation and if the vehicle is returned to the petitioner, there is a likelihood of the petitioner will commit a similar type of offence.

3. The learned counsel for the petitioner submits that even though the vehicle was seized on 23.04.2017, so far the respondent police did not take any steps to initiate any confiscation proceedings and nearly for more than 2 months, the vehicle is in custody of the police and is exposed to sun and rain and the petitioner also undertakes that he will not involve in any crime.

4. Considering the fact that so far no confiscation proceedings has been initiated by the respondent police till date and the vehicle was also seized nearly two months ago, I am inclined to return the vehicle to the petitioner.

5. In the circumstances above stated, the Learned Judicial Magistrate II, Chengalpattu, shall direct the Inspector of Police, PEW/Chengalpattu, to return the vehicle 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 execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) to the satisfaction of the learned Judicial Magistrate II, Chengalpattu; and
- iv. the petitioner shall also give an undertaking that she 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.

6. In the event of confiscation, the petitioner's rights shall be governed by the provisions of the Tamil Nadu Prohibition Act.

7. Accordingly, the Criminal Revision is ordered.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate II,
Chengalpattu.
2. The Inspector of Police,
PEW/Chengalpattu Police Station,
Kancheepuram District.
3. The Additional Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Sasikumar, Advocate Sr. 41366

CrI.R.C.No.768 of 2017

SJ(CO)
VR(14/06/2017)

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