



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.04.2017

CORAM:

THE HON'BLE MR.JUSTICE P.N.PRAKASH

Cr1.O.P. (MD)No.4896 of 2017

WEB COPY

Ramesh @ Kanadu Ramesh

... Petitioner

-vs-

1. The Deputy Superintendent of Police,
Prohibition and Excise Wing,
Pudukkottai District.
2. State represented by
The Inspector of Police
Alangudi Prohibition and Excise Wing,
Pudukkottai District.
(Crime No.413 of 2016)

... Respondents

Prayer: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure to direct the 2nd respondent to produce the Maruti Desire vehicle bearing registration No.TN-55-Y-9985 before the learned Judicial Magistrate, Alangudi, Pudukkottai District in connection with the Crime No.413 of 2016 on the file of the 2nd respondent police.

For petitioner : Mrs.A.Banumathy

For respondents : Mr.A.P.Balasubramani
Govt. Advocate (Cr1. Side)

O R D E R

This petition has been filed to direct the 2nd respondent to produce the Maruti Desire vehicle bearing registration No.TN-55-Y-9985 before the learned Judicial Magistrate, Alangudi, Pudukkottai District in connection with the Crime No.413 of 2016 on the file of the 2nd respondent police.

2. The petitioner is an accused in Alangudi Prohibition and Excise Wing Crime No.413 of 2016 for offences under Sections 4(1) (aaa). 4(1-A) of Tamil Nadu Prohibition Act for transport of liquor by a vehicle. The petitioner's Maruti Dzire Car bearing Reg.No.TN-55-Y-9985 was intercepted by the respondent Police on 01.09.2016 and on checking the vehicle, they found Indian made foreign liquor in huge quantity. Hence, the FIR against the petitioner.



3. The petitioner was arrested, remanded to judicial custody and was subsequently released on bail. The seized car has been produced to the Additional Superintendent of Police, Pudukkottai District, who is the authority under the Prohibition Act to initiate confiscation proceedings. The Additional Superintendent of Police issued a notice dated 24.09.2016 to the petitioner, asking him to show cause as to why the car should not be confiscated. While so, the petitioner has filed CrI.M.P.6556 of 2016 under Section 457 Cr.P.C. for a direction to the Police to produce the car before the learned Judicial Magistrate, Alangudi, which was dismissed by the learned Magistrate on 04.01.2017 on the ground that confiscation proceedings are pending. The said order is under challenge in this petition.

4. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI. Side) appearing for the respondents.

5. Learned counsel for the petitioner submitted that once the Police seized the vehicle, they are duty bound to produce the same before the Magistrate and on their failure to produce the same, the Magistrate can issue a direction under Section 457 Cr.P.C.

6. In the considered opinion of this Court, a direction as prayed for by the petitioner cannot be granted, because Tamil Nadu Prohibition Act is a special enactment, which provides for a separate procedure for confiscation of vehicles seized by the Police in connection with the offences under the Act. Therefore, the General Law adumbrated under the Code should give way to the Special Law on the principle of *Generalia Specialibus Non Derogant*. Since the confiscation proceedings were initiated by the Additional Superintendent of Police as early as on 24.09.2016, the prayer sought for by the petitioner, namely, for production of the vehicle before the Magistrate is misconceived. In fact, appeal is provided before the District and Sessions Court against the confiscation order passed by the authority under the Tamil Nadu Prohibition Act.

In the result, this petition is devoid of merits and the same is accordingly dismissed.

Sd/-
Assistant Registrar (CO)

/True Copy/

Sub Assistant Registrar



To

1. The Judicial Magistrate,
Alangudi, Pudukottai District.
2. The Deputy Superintendent of Police,
Prohibition and Excise Wing,
Pudukkottai District.
3. The Inspector of Police
Alangudi Prohibition and Excise Wing,
Pudukkottai District.
4. The Additional Public Prosecutor
Madurai Bench of Madras High Court
Madurai.

+1 cc to Mr.A.BANUMATHY, Advocate SR.No. 54799

Crl.O.P. (MD) No.4896 of 2017
26.04.2017

SMA/CM-MSA/SAR-3/10.05.2017:3P/6C