



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.09.2017

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THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C(MD).No.734 of 2017

Krishnan

... Petitioner

-Vs-

The State of Tamil Nadu
rep.by the Sub Inspector of Police,
Karungal Police Station,
Kanyakumari District.

.. Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for records relating to the order passed by the Principal District Munsiff - cum - Judicial Magistrate, Eraniel in Cr.M.P.No.6347 of 2017 dated 09.08.2017 and set aside the same and return the vehicle bearing Registration No.TN-75-AA-4340 to the petitioner.

For Petitioner	: Mr.M.Boopathi Pandian
For Respondent	: Mr.C.Mayilvahana Rajendran, Additional Public Prosecutor

O R D E R

The petitioner is the accused in Crime No.208 of 2017 on the file of the respondent police for the offence under Sections 4 (1)(a) and 14(A) of the Tamil Nadu Prohibition Act. The allegation against the petitioner is that he has transported 30 bottles of old secret rum, each contains 180 ml, purchased from the TASMACH shop and the vehicle was also seized. Thereafter, the petitioner filed an application before the Court below, seeking return of the vehicle and the same was dismissed on the ground that confiscation proceeding is pending. Challenging the same, the present Criminal Revision Case has been filed.

2.I have heard Mr.M.Boopathi Pandian, learned counsel appearing for the petitioner and Mr.C.Mayilvahana Rajendran, learned Additional Public Prosecutor, appearing for the respondent.

<https://hcservices.ecourts.gov.in/hcservices/>
The learned counsel appearing for the petitioner submitted that the petitioner has transported 30 bottles of old



secret rum, which were purchased from a TASMAL and the same are not illicit liquor and he has also given undertaking that the petitioner will not use the vehicle for any other crime in future.

4. Per contra, the learned Additional Public Prosecutor appearing for the respondent submitted that eleven previous cases are pending against the petitioner for the offence under the Tamil Nadu Prohibition Act and if the vehicle is released, there is likelihood for the petitioner to use the vehicle for illegal transportation of liquor. It is also submitted that confiscation proceeding is pending before the concerned authority.

5. I have considered the rival submissions made on either side and perused the records carefully.

6. Considering the fact that the petitioner has transported the liquor bottles, which were purchased from the TASMAL shop and also considering the undertaking given by the petitioner that he will not use the vehicle for any illegal purpose in future and also considering the fact that the vehicle was seized as early as on 09.06.2017 and the value of the vehicle would be deteriorated, if the same is exposed to sun and rain, I am inclined to release the vehicle subject to confiscation proceedings.

7. In fine, this Criminal Revision Case is allowed and the impugned order passed in Cr.M.P.No.6347 of 2017 dated 09.08.2017 by the Court below is set aside and the vehicle viz., Maruti Celerio ZXI AMTBSIV, bearing Registration No.TN-75-AA-4340 is directed to be handed over to the revision petitioner, on the following conditions:-

i) The Petitioner shall produce proof of ownership of the vehicle;

ii) The Petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties to the satisfaction of the Principal District Munsiff - cum - Judicial Magistrate, Eraniel

iii) The petitioner shall surrender the R.C.Book and the learned Principal District Munsiff - cum - Judicial Magistrate, Eraniel is at liberty to return the R.C.Book for renewal of the registration or for insuring the vehicle. The R.C Book can be obtained from the court by filing a petition and after the accomplishment of the purpose, the same should be returned to the court; and

iv) the petitioner shall also file an affidavit of undertaking to the effect that:

a) he will not alienate the vehicle without obtaining an order from the Principal District Munsiff - cum - Judicial Magistrate, Eraniel

b) he shall produce the said vehicle before the Court as and when summoned to produce the same; and



c)no major alteration excepting the necessary repairs to make the vehicle road worthy shall be made and

d)he shall produce the vehicle before the Court if any confiscation order is passed.

Sd/-
Assistant Registrar(AE)

/True Copy/

Sub-Assistant Registrar

To

1.The Principal District Munsiff - cum -
Judicial Magistrate, Eraniel

2.The Sub Inspector of Police,
Karungal Police Station,
Kanyakumari District.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+One cc to M/s.S.Mark J Jackson, Advocate, SR.No.79678

mj
RL/5C/3P/GT/SAR3/28/9/2017

Cr1.R.C(MD) No.734 of 2017