



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P. No.30295 of 2018
and
W.M.P. No.35353 of 2018

Anabazhagan ... Petitioner

Vs.

1.The Addl. Superintendent of Plice,
Prohibition and Excise Wing,
Nagapattinam,
Nagapattinam District.

2.The Inspector of Police,
PEW, Mayiladuthurai,
Mayiladuthurai Taluk,
Nagapattinam District.

...Respondents

Prayer: Writ petition filed under Article 226 of the Constitution of India, praying for issuance of a Writ of Certiorarified Mandamus, to call for the records relating to the order of the first respondent in Na.Ka.No.15/Ku.Kaa.Ka/Ma.Vi.A.Pi/Nagai/2018 dated 04.09.2018, and quash the same and consequently direct the 1st respondent to return the vehicle Toyota Innova Car bearing Registration No.PY-01-AC-4114.

For Petitioner : Mr.V.Kasinatha Bharathi

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Writ Petition has been filed challenging the notice issued by the first respondent, dated 04.09.2018 and for a direction to the first respondent to return the car belonging to the petitioner.



2.The second respondent police has registered an FIR in Crime No.5390 of 2018 for an offence under Sections 4(1)(aaa) and 4(1-A) of the Tamilnadu Prohibition Act against seven accused persons. The petitioner is not an accused in the said case.

3.The petitioner had informed the second respondent police that he is the owner of the car and he is not aware about the alleged offence. In the mean time, the first respondent has initiated confiscation proceedings against the petitioner under Sections 14 and 14-A of the Tamilnadu Prohibition Act.

4.The learned counsel for the petitioner would submit that the first respondent has pre-determined the issue and even without conducting an enquiry, the first respondent has stated in the notice that the car will be brought for public auction. The learned counsel for the petitioner would further submit that pursuant to the notice issued by the first respondent, the petitioner has given a detailed reply to the first respondent on 08.09.2018. Therefore, the learned counsel would submit that even without considering the reply given by the petitioner, first respondent is proceeding further with the confiscation proceedings.

5.The learned Additional Public Prosecutor on instructions, would submit that the impugned notice had only stated that if the petitioner does not submit his reply along with all the necessary documents, the first respondent had indicated that he will proceed further to confiscate the vehicle and bring it for auction. Therefore, the learned counsel would submit that there was no pre-determination on the part of the first respondent and the first respondent had merely informed the petitioner about the consequences of not giving a reply along with the documents, for the show cause notice. The learned counsel would further submit that the first respondent will consider the reply given by the petitioner and will proceed further only in accordance with the law.

6.In view of the specific stand that has been taken by the learned Additional Public Prosecutor, the impugned notice issued by the first respondent, shall be taken only to be a show cause notice. The petitioner has already given his reply to the first respondent on 08.09.2018. The first respondent shall consider the reply along with the other documents filed by the petitioner and shall give sufficient opportunity to the petitioner and proceed in accordance with the law. The first respondent shall also call the petitioner at the time of hearing.



7. This Writ Petition is disposed of with above directions.
No costs. Consequently, connected miscellaneous petition is closed.

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Sd/-
Assistant Registrar (CS-VI)

//True Copy//

Sub Assistant Registrar

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To

1. The Additional Superintendent of Police,
Prohibition and Excise Wing,
Nagapattinam,
Nagapattinam District.

2. The Inspector of Police,
PEW, Mayiladuthurai,
Mayiladuthurai Taluk,
Nagapattinam District.

W.P.No.30295 of 2018

RK (CO)
GN (18/12/2018)