

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Date: 23.11.2018

CORAM

THE HONOURABLE THIRU JUSTICE V. PARTHIBAN

Crl.Revision Case No.1333 of 2018

Mr.Nasar

.. Petitioner

versus

The State, by Inspector of Police,
Food Cell Wing Police, CSID,
Polachi Police Station, Polachi
Coimbatore District.

.. Respondent

Prayer: This Criminal Revision Case is filed under Section 397 & 401 of Cr.P.C., against the order passed in C.M.P.No.4180 of 2018 by the learned Judicial Magistrate No.IV, Coimbatore

For Petitioner : Mr.Guruprasad

For Respondent : Mr.G.Harihara Arun-
Somasankar, GA

ORDER

This Criminal Revision Case has been filed against the order passed in C.M.P.No.4180 of 2018 by the learned Judicial Magistrate No.IV, Coimbatore, in and by which, the application filed under Section 451 Cr.P.C. seeking for return of the vehicle seized by the respondent police in connection with Crime No.296 of 2018 came to be rejected.

2. It appears that the petitioner is the owner of the vehicle bearing Registration No.KL 47 H 0516 (Mahendra Bolera Maxi Truck Plus), which was allegedly used by the accused for illegal transport of 1000 kgs of PDS rice. He moved an application under Section 451 Cr.P.C. for return of the vehicle. The learned Judicial Magistrate rejected the application, stating that already confiscation proceedings had been initiated

and the vehicle was placed in the custody of DRO, Coimbatore and hence, the petitioner is not entitled for the relief, however, the petitioner can approach the appropriate authority under Section 6(c) of the Essential Commodities Act. Aggrieved by the same order of the learned Judicial Magistrate, the present Criminal Revision Case has been filed.

3. Appearing for the petitioner, Mr.Guruprasad, learned counsel would submit that the petitioner being the registered owner of the vehicle, is entitled for interim custody of the vehicle in question under Section 457 of the Code of Criminal Procedure and the Magistrate has power to entertain the application for interim custody even though the vehicle was seized and not produced before the Court, when the factum of seizure is not disputed. The learned counsel would further that the petitioner is not an accused and there is no impediment in returning the vehicle to the petitioner and if the vehicle is kept idle, it will erode in its value.

4. Appearing for the State, Mr.Harihara Arun Somasankar, learned Govt. Advocate would submit that the proceeding for confiscation has already been initiated and a show cause notice was also sent to the owner of the vehicle, as such, the petitioner is not entitled for interim custody of the vehicle in question and the Court below has rightly rejected the petition, which requires no interference.

5. It is not in dispute that the subject vehicle was seized in connection with Crime No.296 of 2018 for commission of offence punishable under Section 6(4) of TNSC (RDCS) Order 1982 r/w 7(i)a(ii) of Essential Commodities Act, 1955 as the said vehicle was found involved in transporting the rice reserved for the poor and needy people. The learned Magistrate has rejected the petition for return of the vehicle on the ground that already confiscation proceedings were initiated and a notice was also issued. This aspect has not been refuted by the learned counsel for the petitioner. As such, in view of the provision 6 (E) of the Essential Commodities Act and the ratio laid down by the Hon'ble Supreme Court in Oma Ram Versus State of Rajasthan and others reported in (2008(5) SCC 502 as well as in State of Bihar and another versus Aravind kumar) made in CrI.A.No.1075-76 of 2012, dated 23.7.2012, holding that Section 6-E was enacted to debar Courts from making any order with regard to possession, delivery, disposal or distribution of essential commodity seized in pursuance of order made under Section 3 of the E.C.Act, the learned Magistrate rejected the petition. In fact, in the above referred to decision, i.e. "Oma Ram v. State of Rajasthan and others" it has clearly been held that Section 6E of the Act deals with bar of jurisdiction of courts in certain cases except the Collector or the State Government, all other authorities

including Magistrate has no jurisdiction to grant relief against seizure under Section 457 of the Code. Therefore, this Court does not find any infirmity in the order passed by the learned Magistrate in order to interfere with the same.

Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar (CS-VIII)

//True copy//

Sub Assistant Registrar

suk

To

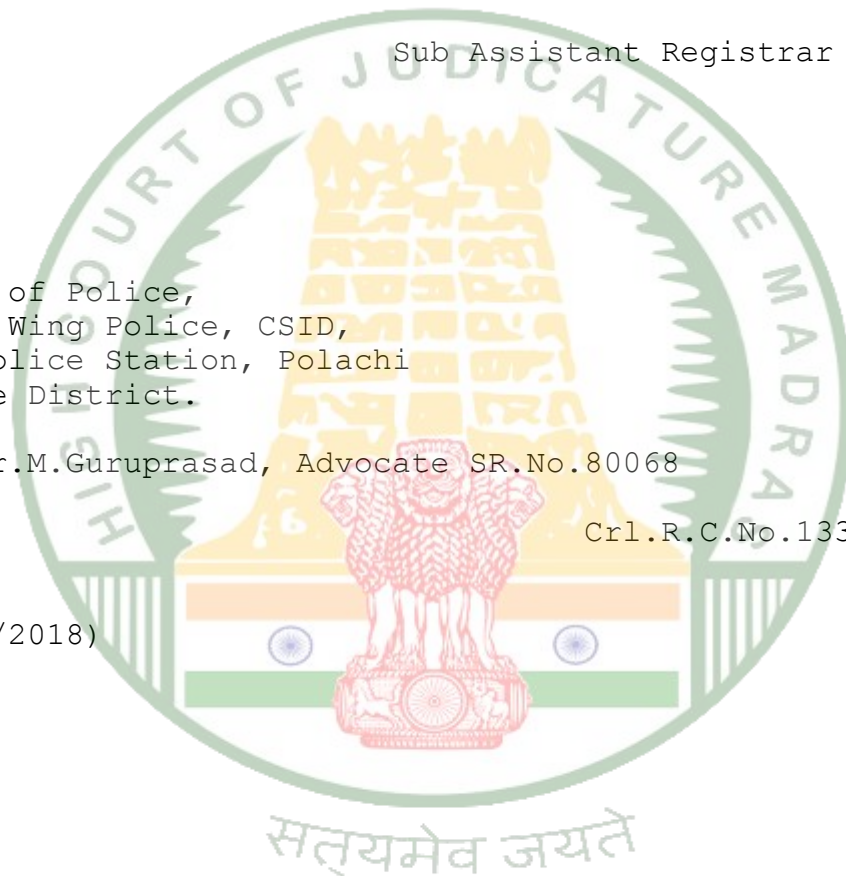
Inspector of Police,
Food Cell Wing Police, CSID,
Polachi Police Station, Polachi
Coimbatore District.

+1cc to Mr.M.Guruprasad, Advocate SR.No.80068

Cr1.R.C.No.1333 of 2018

NM(CO)

GMV (27/12/2018)



WEB COPY