



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.01.2018

CORAM:

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.R.C. (MD)No.47 of 2018

Muthusolai

: Petitioner

-Vs.-

The Sub-Inspector of Police,
M.Rettiyapatti Police Station,
Virudhunagar District.
(Crime No.199 of 2017)

: Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 Cr.P.C., to call for the records relating in Crl.M.P.No.15 of 2018, on the file of the learned Judicial Magistrate, Aruppukottai, dated 18.01.2018, and consequently, direct the respondent police to hand over the vehicle (Tata Sumo Car - TN 65 C 9898) to the petitioner, within the time stipulated by this Court.

For Petitioner : Mr.R.Venkatesan

For Respondent : Mrs.S.Bharathi,

Government Advocate (Crl. Side)

O R D E R

The petitioner's vehicle - Tata Sumo bearing Registration No.TN 65 C 9898 was involved in Crime No.199 of 2017 for offences under Sections 4 (1) (a) and 14 A of the Tamil Nadu Prohibition Act for transporting illicit liquor. The vehicle was seized by the police. The petitioner filed an application under Sections 451 and 457 Cr.P.C., in Cr.M.P.No.15 of 2018 before the learned Judicial Magistrate, Aruppukottai, for a direction to produce the vehicle before the learned Magistrate and give interim custody of the same. The said petition was dismissed by the learned Magistrate, by order dated 18.01.2018, challenging which, the petitioner has filed the present Criminal Revision Case.

2. Heard Mr.R.Venkatesan, learned counsel appearing for the petitioner and Mrs.S.Bharathi, learned Government Advocate (Crl. Side) appearing for the respondent.

3. The learned counsel for the petitioner placed strong reliance on the judgment of this Court dated 28.04.2016 in Crl.R.C.No.248 of 2016 [*S.Vijaya vs. State rep. by the Sub-Inspector of Police, Peralam Police Station and two others*] and contended that the learned Magistrate should have returned the vehicle to the petitioner.



4. Per contra, the learned Government Advocate (Criminal side) submitted that the Additional Superintendent of Police has completed the confiscation proceedings and has passed orders as early as on 26.12.2017 under Section 14(4) of the Tamil Nadu Prohibition Act, confiscating the said vehicle to the State.

5. This Court gave its anxious consideration to the rival submissions.

6. Even, in the Judgment relied upon by Mr.R.Venkatesan, learned counsel for the petitioner, a Division Bench Judgment of this Court between David v. Shakthivel, Inspector of Police -cum- Station House Officer [CDJ 2010 MHC 840] has been relied upon, wherein in Paragraph No.28(1), this Court has stated as follows:

"Whenever seizure of properties involved in the commission of offence under Prohibition Act, exercise of power is not automatic. Court should afford sufficient opportunity to the prosecution to inform the court about the steps taken by the investigating Agency. Keeping in view the spirit of section 14(4) of TNP Act, court on its own should ascertain whether any confiscation proceedings has been initiated and the stage of confiscation proceedings."

7. Thus, the Division Bench of this Court has stated that return of property under the Tamil Nadu Prohibition Act is not automatic. In this case, confiscation proceedings have been completed and, therefore, the learned Magistrate has no jurisdiction to return the property to the petitioner. It is for the petitioner to challenge the confiscation order before the Sessions Court in accordance with law. Therefore, this Court does not find any infirmity in the order passed by the Court below warranting interference by this Court.

8. In the result, this Criminal Revision Case is dismissed with liberty to work out his remedies in the manner to law.

Sd/-

Assistant Registrar(CO)

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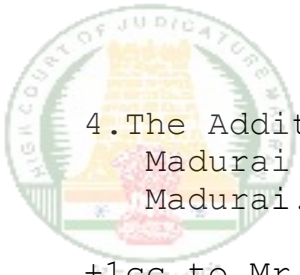
Sub Assistant Registrar

To

1.The Judicial Magistrate,
Aruppukottai.

2.The Chief Judicial Magistrate,
Srivilliputtur at Virudhunagar.

3.The Sub-Inspector of Police,
M.Rettiyapatti Police Station,
Virudhunagar District.



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

+1cc to Mr.R.VENKATESAN, Advocate, SR.44191

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Cr1.R.C. (MD) No.47 of 2018
24.01.2018

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