



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 26.07.2018

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WEB COPY

THE HONOURABLE MRS.JUSTICE R.THARANI

Crl.R.C.(MD)No.412 of 2018

Madasamy

... Petitioner/Petitioner

Vs.

The State Rep. by
The Sub-Inspector of Police,
Prohibition and Enforcement Wing,
Srivilliputtur, Virudhunagar District.
(In Crime No.375 of 2018)

... Respondent/Respondent

Prayer : Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, to call for records and set aside the order passed by the Judicial Magistrate Court, Rajapalayam in Crl.M.P.(MD)No.7292 of 2018 on 10.07.2018 and allow this Criminal Revision Petition.

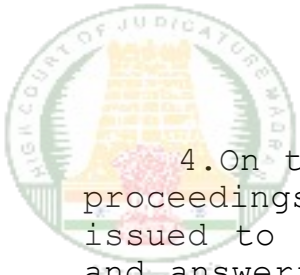
For Petitioner : Mr.M.Jothibasu

For Respondent : Mr.K.Suyambulinga Bharathi
Government Advocate**ORDER**

This Criminal Revision Case has been filed against the order passed by the learned Judicial Magistrate, Rajapalayam in Cr.M.P.No.7292 of 2018 dated 10.07.2018 and quash the same.

2.The case against the petitioner is that his vehicle/auto ricksaw bearing Registration No.TN67 AX 4234 was used for transporting illegal liquor. A case in Crime No.375 of 2018 was registered under Sections 4(1)(a), 4(1-A) of Tamil Nadu Prohibition Act, against the two accused. A1 is the owner of the liquor and A2 is the driver of the auto. The petitioner filed a petition to return of the property and the same was dismissed by the Lower Court.

3.On the side of the petitioner, it is stated that the petitioner purchased the vehicle and he was using the same only for lawful purpose. The petitioner is not an accused. The vehicle is lying before the police station from 07.06.2018 onwards. The value of the vehicle will be affected from sun light, air and rain etc. The petitioner is depending upon the vehicle to meet out his day to day expenses. The petitioner undertakes to produce the said vehicle as and when required, by the Court.



4. On the side of the respondent, it is stated that confiscation proceedings are under the process and the show cause notice was issued to the petitioner. Instead of appearing for further enquiry and answering the show cause notice, the petitioner has come before this Court with this petition, on apprehension of confiscation proceedings and he prayed for dismissal of the petition.

5. On the side of the petitioner, it is stated that even when the confiscation proceedings are pending, vehicle can be returned to the petitioner. In support of this contention, he relied on a judgment of this Court in Sakthidevi V. State by the Inspector of Police, reported in 2011 (4) MLJ (Criminal) 364 and in Vennila V. State represented by Inspector of Police, reported in 2016 (1) T.N.L.R. 516 (MAD).

6. Records perused.

7. The petitioner is not an accused in the case. The petitioner has produced a copy of the RC book, which is in his name. The Additional Superintendent of Police, Prohibition and Enforcement Wing, Virudhunagar District issued only a show cause notice to the petitioner. The confiscation proceedings may take time. If the vehicle is kept in the open place, it will lose its value. In the above circumstances, this Court is of the view that it is a fit case to return the property for safe custody till the disposal of the case and hence, the impugned order passed by the learned Judicial Magistrate, Rajapalayam in Cr.M.P.No.7292 of 2018 dated 10.07.2018 is to be set aside. Accordingly, the impugned order passed by the learned Judicial Magistrate, Rajapalayam in Cr.M.P.No.7292 of 2018 dated 10.07.2018 is set aside and the learned Judicial Magistrate, Rajapalayam is directed to return the vehicle namely auto richsaw bearing Registration No. TN67 AX 4234 to the petitioner under the following conditions:

(a) The petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only), before the learned Judicial Magistrate Court, Rajapalayam;

(b) The petitioner shall surrender the original R.C.Book and the learned Judicial Magistrate Court, Rajapalayam is at liberty to temporary return of the R.C.Book, in case of renewal of insurance and to get the same back within a prescribed time limit;

(c) The petitioner shall not alter or encumber or alienate the vehicle in any manner;

(d) The petitioner shall give an undertaking that he shall produce the vehicle as and when required by the respondent police;



(e)The petitioner shall produce the vehicle before the trial Court on the dates required by the prosecution;

(f)the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.

(g)the petitioner is directed to appear before the respondent as when required and to co-operate with the investigation.

7.Accordingly, this Criminal Original Petition is allowed.

Sd/-

Assistant Registrar (CS-I)

/True Copy/

Sub Assistant Registrar (CS-IV)

To

1.The Judicial Magistrate,
Rajapalayam.

2.The Sub-Inspector of Police,
Prohibition and Enforcement Wing,
Srivilliputtur,
Virudhunagar District.

3.The Additional Superintendent of Police,
Prohibition and Enforcement Wing,
Virudhunagar District.

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

+1CC to M/s.G.M.Law Office in SR.No.75201.

LS

DS/RP/SAR-4 :10.08.2018: 3P/6C

Cr1.R.C. (MD) No.412 of 2018
26.07.2018