



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.09.2018

CORAM:

THE HON'BLE MR.JUSTICE N.ANAND VENKATESH

W.P.(MD)No.18771 of 2018

and

W.M.P.(MD)Nos.16612 and 16613 of 2018

R.Pichai Raja

... Petitioner

-Vs-

The Additional Superintendent of Police,
Prohibition and Enforcement Wing,
Madurai.

... Respondent

Prayer: Writ petition filed under Article 226 of the Constitution of India, Writ of Certiorari call for the records of the respondent in Na.Ka.No.60-3/ADSP/PEW/MD/2018 dated 07.06.2018 and quash the same as illegal and arbitrary.

For Petitioner

: Mr.P.Ganapathi Subramanian

For Respondents

: Mr.B.Bhagawathi,
Government Advocate

ORDER

This Writ petition has been filed challenging the proceedings of the respondent, dated 07.06.2018, wherein the petitioner has been called upon to pay a sum of Rs.1,20,000/- in order to take back the possession of his TATA Acc vehicle.

2.The case of the petitioner is that he is the owner of the TATA Acc vehicle bearing registration No.TN64 H 8453. The said vehicle was intercepted by the Inspector of Police, Prohibition and Excise Wing, Melur Police Station, on 30.04.2018 and it was found that the petitioner's son had carried liquor bottles in the said vehicle. A case was registered in Cr.No.340 of 2018 against the petitioner's son for an offence under Section 4(1)(aaa) of the Tamilnadu Prohibition Act. The petitioner's son was arrested and was released on bail, on 11.05.2018. The petitioner has thereafter received the impugned communication from the respondent directing the petitioner to pay a sum of Rs.1,20,000/- being the value of the vehicle and thereafter take back the vehicle.

3.The learned counsel for the petitioner would submit that the present impugned order can be passed only after an order is passed under Section 14 of the Tamilnadu Prohibition Act confiscating the vehicle. According to the petitioner no notice was served on him



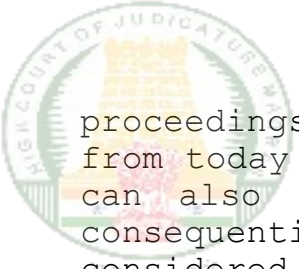
before such proceedings took place and the only communication that he received from the respondent is the impugned communication, dated 07.06.2018.

4. The learned Government Advocate would submit that the present writ petition is not maintainable, since a consequential order has been challenged by the petitioner. The learned Government Advocate would further submit that the respondent has already passed confiscation order, dated 14.05.2018, under Section 14 of the Tamilnadu Prohibition Act and the petitioner has not challenged the said order. Therefore, the present writ petition filed by the petitioner is not maintainable.

5. This Court has carefully considered the submissions made on either side and has also gone through the records. It is seen that an F.I.R has been registered on 30.04.2018 against the petitioner's son for an offence under Section 4(1)(aaa) of the Tamilnadu Prohibition Act and thereafter, the vehicle has been seized on the very same day in the presence of the witnesses. The petitioner's son was arrested and he was released on bail by an order, dated 11.05.2018. It is the case of the respondent that a notice dated 12.05.2018, was issued by the respondent for initiating proceedings for confiscation under Section 14 of the Tamilnadu Prohibition Act and this notice was received by the petitioner on 13.05.2018. Subsequently, a confiscation order dated 14.05.2018 has also been passed by the respondent, wherein, it is noted that the petitioner himself had given a letter to the effect that he would pay the value of the vehicle and get the vehicle back from the respondent. This order was passed on 14.05.2018. Subsequently, since the petitioner did not make the payment, consequential proceedings, dated 07.06.2018 has been initiated and the same has been impugned as a subject matter of challenge before this Court.

6. The issue as to whether the petitioner had been given a notice before the proceedings were initiated under Section 14 of the Prohibition Act is a factual aspect and this Court will not go into the said dispute. The Government Advocate had filed a copy of the confiscation order passed by the respondent, dated 14.05.2018. The petitioner cannot maintain this writ petition without challenging the confiscation order, dated 14.05.2018, since the order under challenge in this Writ petition is only a consequential order.

7. In view of the above an opportunity can be given to the petitioner to challenge the confiscation order, dated 14.05.2018. Section 14(5) of the Tamilnadu Prohibition Act provides for an Appellate remedy before the Court of Session against an order passed under Sub Section 4 of Section 14 of the Tamilnadu Prohibition Act. The petitioner is directed to file an appeal before the Court of Sessions, having jurisdiction against the confiscation order, dated 14.05.2018, within a period of one week from the date of receipt of a copy of this order. The Court of Sessions shall take the appeal on file and deal with the same in accordance with law. The impugned



proceedings in this writ petition is stayed for a period of 10 days from today (i.e., 05.09.2018). The petitioner while filing the appeal can also file an appropriate petition seeking for stay of the consequential proceedings, dated 07.06.2018 and the same will be considered by the Court of Sessions in accordance with law.

8. This writ petition is disposed of with the above direction. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar (RTI)

/True Copy/

Sub Assistant Registrar (CS-I)

To

The Additional Superintendent of Police,
Prohibition and Enforcement Wing,
Madurai.

+1cc to M/S.P. Ganapathi Subramanian, Advocate SR.No. 82764

W.P. (MD) No. 18771 of 2018
05.09.2018

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JM/RP/SAR 1/06.09.2018/3P/3C