

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.08.2019

CORAM:

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1304 of 2012

The State rep. by
The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Coimbatore District.Petitioner

Vs.

P.R.SribalanRespondent

This Criminal Revision case is filed under Section 397 read with Section 401 of Cr.P.C. to set aside the order passed by the learned Principal and District Sessions Judge, Coimbatore, in Criminal Appeal No.6 of 2010, dated 08.03.2012.

For Petitioner : Mr.T.Shanmugarajeswaran,
Government Advocate (Crl.Side)

For Respondent : Mrs.N.Valliamma
for Mr.M.Christopher

ORDER

This criminal revision has been filed by the state against the order dated 08.03.2012 passed by the learned Principal District and Sessions Judge, Coimbatore, in Criminal Appeal No.6 of 2010.

2 The respondent herein was arrayed as accused in Crime.No.180 of 2009 and subsequently case was investigated and charge sheet was also filed, which was taken on file in C.C.No.247 of 2009 by the learned Judicial Magistrate No.VI, Coimbatore, and now the above case is pending for trial. The vehicle in question was seized by the respondent police and confiscation proceedings was initiated and final order was also passed on 24.10.2009. Challenging the same, the respondent, being a owner of the vehicle, has filed an appeal in criminal appeal No.6 of 2010 and the learned Principal District and Sessions Judge, Coimbatore, allowed

the appeal and by judgment dated 08.03.2012 set aside the order of confiscation and remitted the matter back to the authorities to hold a fresh enquiry. Challenging the judgment dated 08.03.2012, the state has preferred this revision before this Court.

3 The learned Government Advocate (Crl.Side) appearing for the petitioner/state would submit that the vehicle in question was used for illegal transport of rectified spirit from Pondicherry to Kerala and hence after obtaining necessary order for confiscation, auction was conducted and amount was also deposited. The respondent, was very well aware of all the proceedings and he kept quite till completion of the proceedings and after that he has filed appeal. The learned Principal District and Sessions Judge has failed to consider the nature of the case and set aside the order of confiscation. In the calender case, prosecution witnesses were examined and the case was posted on 16.08.2019 for 313 proceedings.

4 The learned counsel appearing for the respondent would submit that no opportunity was given to the respondent before passing final order of confiscation. The confiscation authorities had failed to observe the mandatory proceedings contemplated under Section 14(4) of the Tamilnadu Prohibition Act and therefore he moved an appeal and the learned Principal District and Sessions Judge has observed that the confiscation authorities have not followed the mandatory provisions and set aside the order of confiscation and remanded back the matter to the authorities, which does not call for any interference.

5 Heard the learned counsel appearing on either side and perused the materials available on record.

6 The vehicle in question was seized by the police and a case was also registered and the same is pending for trial. Meanwhile, the state has initiated confiscation proceedings and the authorities has also passed final order of confiscation. It is seen from the records that the authority has issued notice and it was stated the respondent refused to received the same and hence it was affixed on 21.07.2009, but confiscation order was passed on 28.07.2009, i.e. before expiry of mandatory period of 14 days. Therefore, the learned Principal District and Sessions Judge, in his order has observed that the authorities had not followed the mandatory proceedings contemplated under Section 14(4) of Tamilnadu Prohibition Act and remitted back the matter to the confiscation authorities. Further the case is under trial, and if the

above calender case is ended in favour of the respondent, he will be affected. This Court does not find any perversity in the order passed by the learned Principal District and Sessions Judge, Coimbatore and the same does not call for any interference.

7 In the result, the criminal revision case is dismissed as devoid of merit and substance. The petitioner/state is directed to follow the directions issued by the learned Principal District and Sessions Judge, Coimbatore, in Criminal Appeal No.6 of 2010, dated 08.03.2012.

cgi

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

To

1. The Principal and District Sessions Judge, Coimbatore.
2. The Public Prosecutor, High Court of Madras.
3. The Additional Superintendent of Police, Prohibition Enforcement Wing, Coimbatore District.

Copy to:-

The Section Officer,
Criminal Section,
High Court, Madras - 104.

+1cc to Mr.S.Dhanaraj, Advocate, SR.No.69853

Cr1.R.C.No.1304 of 2012

Kak(30/10/2019)

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