

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.01.2019

CORAM:

THE HONOURABLE MR. JUSTICE N.ANAND VENKATESH

Crl.O.P.No.8933 of 2018

P.V.Mohan

...Petitioner

Vs.

The State of Tamil Nadu,
Rep. by its Inspector of Police,
CSCID, Kanchipuram,
Kanchipuram District.
FIR.No.174/2016, CSCID, Kanchipuram.Respondent

PRAYER: Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the lower Court order in Crl.R.P.No.5 of 2017 on the file of the District Judge and Sessions Court II, Kanchipuram, in CMP.No.4949 of 2016 on the file of Judicial Magistrate No.I, Kanchipuram dated at 06.06.2017.

For Petitioner : Mr.M.Senthamizh Selvan

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed challenging the order passed by the Court below dismissing the petition filed by the petitioner for return of vehicle. An F.I.R. was registered in Crime No.174 of 2016 against the petitioner and another person namely Sivakumar for an offence under Sections 6(4) of TN Scheduled Commodities (RDCS) Order, 1982, and Sections 7(1)(a)(ii) of Essential Commodities Act, 1955. The vehicle belonging to the petitioner was also seized and the petitioner was arrested.

2.The petitioner filed a petition seeking for release of the vehicle. This petition was dismissed by the Court below on the ground that the Judicial Magistrate Court will have no jurisdiction to entertain the petition and the petitioner necessarily has to approach the competent authority under the Act, seeking for return of property.

3.The learned counsel for the petitioner brought to the notice of this Court, the order passed by the competent authority dated 24.08.2017, wherein the competent authority has already ordered for the confiscation of the vehicle. The learned counsel for the petitioner submitted that even though the order was passed on 24.08.2017, this order was received by the petitioner only during October 2018. The learned counsel for the petitioner further submitted that since this Criminal Original Petition was pending, the petitioner did not file any appeal and did not resort to any further remedy.

4. In view of the above, order passed by the competent authority, nothing survives in this Criminal Original Petition and this Court cannot direct the return of the vehicle. The petitioner has to workout his remedy by challenging the order of confiscation passed by the competent authority under the Act and thereafter seek for the return of the vehicle.

5. This Criminal Original petition is disposed of by giving liberty to the petitioner to challenge the order passed by the competent authority dated 24.08.2017 before the Principal Sessions Court. On an appeal being filed by the petitioner, the concerned Principal Sessions Court shall entertain the same and proceed with the same in accordance with law. The relief of return of vehicle can also be pursued by the petitioner in the appeal to be filed before the concerned Principal Sessions Court.

Sd/-
Assistant Registrar

//True Copy//

lpp/vsa
To

Sub Assistant Registrar

1. The District and Sessions Judge - II, Kanchipuram
2. The Judicial Magistrate No.I, Kanchipuram.
- 3.The Inspector of Police,
CSCID, Kanchipuram,
Kanchipuram District.
- 4.The Public Prosecutor,
High Court of Madras, Madras.

+1 cc to Mr.M.Senthamizh Selvan, Advocate, S.R.No.6869

CrI.O.P.No.8933 of 2018

MP (CO)
SSM(14/02/2019)