

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 27.06.2019

CORAM

THE HONOURABLE MR.JUSTICE P.N.PRAKASH

Crl.Rev.No.539 of 2019

M.Mathiyazhagan

..Petitioner

-Vs-

The State rep.
The Sub-Inspector of Police,
Anaicut Police Station,
Kancheepuram District

...Respondent

This Criminal Revision Petition has been filed under Sections 397 and 401 of Criminal Procedure Code to call for the records relating to the order dated 21.05.2019 passed by the learned Judicial Magistrate, Madurantakam in C.M.P.No.2544 of 2019 and set aside the same.

For Petitioner : Mr.G.Mageshkumar

For Respondent : Mrs.P.Kritika Kamal
Government Advocate [Crl.Side]

ORDER

The petitioner, who is the owner of the motor cycle which was used for transporting 25 bottles of 'Black Magic Brandy' is seeking to call for the records relating to the order dated 21.05.2019 passed by the

learned Judicial Magistrate, Madurantakam in C.M.P.No.2544 of 2019 and set aside the same.

2. The respondent police registered a case in Crime No.80 of 2019 on 15.04.2019 under Section 4(1)(a) of Tamilnadu Prohibition Act against one Nagooran for transporting 25 bottles of 'Black Magic Brandy' by TVS Star City 110 motor cycle bearing registration no.TN-21-AW-9068 on 15.04.2019. The police arrested the accused and seized the vehicle and the brandy bottles. The petitioner, who is the owner of the motor cycle filed Crl.M.P.No.2544 of 2019 in Crime No.80 of 2019 under Sections 451 and 457 of Cr.P.C., for interim custody of the motor cycle, which has been dismissed by the learned Judicial Magistrate, Madurantakam on 21.05.2019, aggrieved by which the petitioner is before this Court.

3. Heard Mr.G.Mageshkumar, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate [Crl.Side] for respondent.

4. It is seen that the motor cycle has not been produced before the learned Magistrate till date on the pretext of initiation of confiscation proceedings. However, no credible materials have been placed before this

Court to show that confiscation proceedings have been initiated. That apart, the petitioner has not been arrayed as an accused in Crime No.80 of 2019 so far and no other person has claimed the custody of the motor cycle.

5. Following the Judgment of the Hon'ble **Division Bench of this Court in David Vs. Shakthivel, Inspector of Police-cum-Station House Officer, Prohibition Enforcement Wing, Tindivanam, Villupuram District [2010] 1 MLJ (Cri.) 909**, this Court directs the respondent police to produce the vehicle before the learned Judicial Magistrate, Maduranthagam within a period of one week from the date of receipt of a copy of this order. On such production, the learned Judicial Magistrate, Maduranthagam is directed to give interim custody of the vehicle to the petitioner on the following conditions:-

(a) The petitioner shall execute a bond for Rs.10,000/- [Rupees Ten thousand only] with two sureties undertaking to produce the vehicle as and when required either by the adjudicating authority under the Tamilnadu Prohibition Act or by the court;

(b) The petitioner shall take photographs of the vehicle and submit the same to the trial court. He shall also submit the photocopy of the R.C.Book to the trial court.

P.N.PRAKASH,J.

6. It is always open to the petitioner to approach this Court for further modification of any of the aforesaid condition.

With the aforesaid observations and directions, this petition stands allowed.

26.06.2019

Index: Yes/No
Internet: Yes/No

ssd

To

1. The learned Judicial Magistrate,
Madurantakam
2. The State rep.
The Sub-Inspector of Police,
Anaicut Police Station,
Kancheepuram District

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