

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2019

CORAM :

THE HONOURABLE MR. JUSTICE P.N. PRAKASH

Crl.R.C.No.610 of 2019

Jagan

... Revision Petitioner/Accused

Vs.

State represented by
The Inspector of Police,
Ponneri Police Station,
Ponneri Taluk,
Tiruvallur District.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., praying to set aside the order passed in C.M.P.No.899 of 2019 by the Judicial Magistrate No.I, Ponneri, dated 10.06.2019 in Crime No.166 of 2019 pending on the file of the respondent police, by allowing this revision.

For Petitioner : Mr.S.N.A.Hussainy

For Respondent : Mrs.P.Kritika Kamal
Government Advocate (Crl. Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 10.06.2019, passed by the Judicial Magistrate No.I, Ponneri, in C.M.P.No.899 of 2019 in Crime No.166 of 2019, pending on the file of the respondent police.

2.During regular vehicle check on 16.04.2019, at about 06.30 p.m., the police checked motor-cycle bearing Registration No.TN-18-AS-2988, driven by the petitioner and recovered 43 quarter liquor bottles, pursuant to which, a case in Crime No.166 of 2019 for the offence under Section 4(i)(a) of the Tamil Nadu Prohibition Act was registered against the petitioner and he was arrested. The vehicle and the contraband were also seized. The petitioner filed Crl.M.P.No.899 of 2019 in Crime No.166 of 2019 before the Judicial Magistrate Court

No.I, Ponneri, under Section 451 r/w. 457 Cr.P.C. for interim custody of the vehicle, which was dismissed by the trial Court, by impugned order dated 10.06.2019, aggrieved by which, the petitioner is before this Court.

3.Heard Mr.S.N.A.Hussainy, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing on behalf of the respondent police.

4.Mr.S.N.A.Hussainy placed strong reliance on the judgment of the learned Single Judge of this Court dated 08.03.2019 in S.Ragu @ Ragunathan v. State [Crl.R.C.(MD) No.71 of 2019] and submitted that the pendency of confiscation proceedings will not be a bar to handover custody of the vehicle.

5.However, the learned Single Judge had not taken into account the judgment of a Division Bench of this Court in David v. Shakthivel, Inspector of Police cum Station House Officer, Prohibition Enforcement Wing, Tindivanam [2010(1) MLJ (Crl) 929], wherein, this issue has been settled. The Division Bench has held that a Magistrate can exercise his/her powers under Sections 451 and 457 Cr.P.C. in a case arising out of the Tamil Nadu Prohibition Act, yet, the Magistrate should bear in mind, the stage of the confiscation proceedings and the other facts and circumstances of the case before ordering interim custody.

6.In this case, the petitioner himself is the accused and the liquor bottles were allegedly seized from the motor-cycle driven by him. Confiscation proceedings has commenced and show cause notice has also been issued on 26.05.2019 by the Additional Superintendent of Police, Tamil Nadu Prohibition Enforcement Wing, Tiruvallur. Considering the facts and circumstances of the case, this Court is of the view that the Magistrate is perfectly justified in dismissing the petition for interim custody of the vehicle. Therefore, this Criminal Revision Case stands dismissed.

-s/d-
Assistant Registrar(CS-I)

True Copy

Sub-Assistant Registrar

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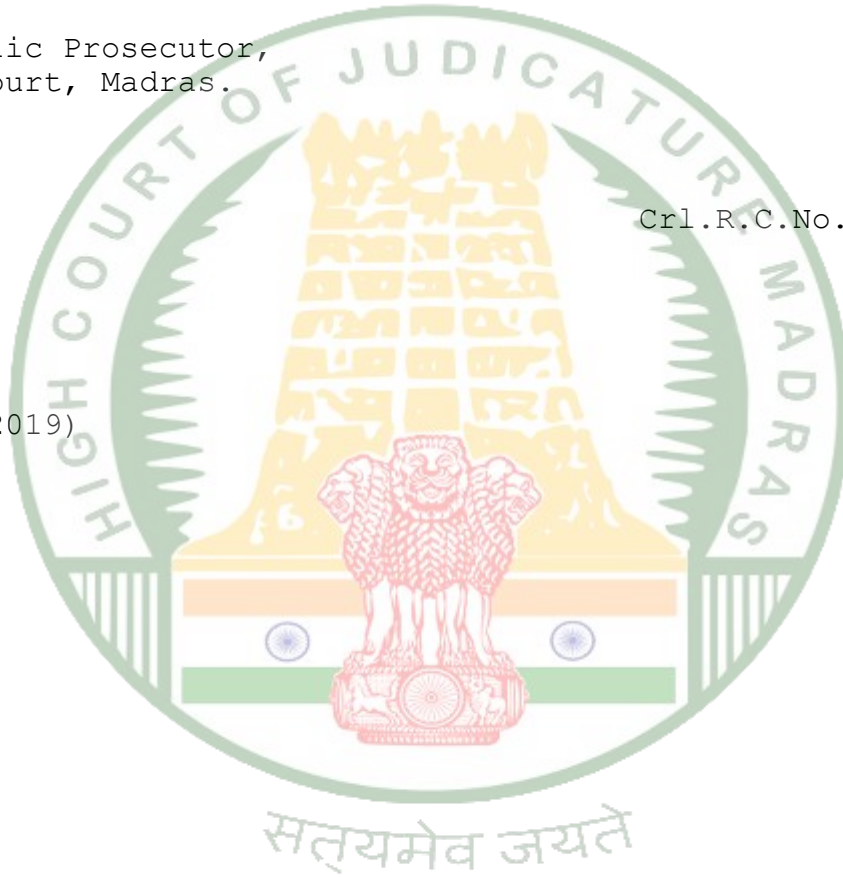
1.The Judicial Magistrate No.I,
Ponneri.

2.The Inspector of Police,
Ponneri Police Station,
Ponneri Taluk,
Tiruvallur District.

3.The Public Prosecutor,
High Court, Madras.

Crl.R.C.No.610 of 2019

BS (CO)
SP(24/07/2019)



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