

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.07.2019

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

CrI.R.C.No.643 of 2019

C.Durai Selvam

.. Petitioner/Petitioner

Vs.

State represented by
Sub-Inspector of Police,
Cheyyur Police Station,
Kancheepuram District.

.. Respondent/Respondent

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 07.06.2019 passed in C.M.P.No.3871
of 2019 on the file of the Judicial Magistrate Court,
Maduranthakam.

For Petitioner : Mr.R.Krishnan

For Respondent : Mr.G.Ramar
Government Advocate
(CrI. Side)

O R D E R

This petition has been filed seeking to set aside the
order dated 07.06.2019 passed in C.M.P.No.3871 of 2019 on the
file of the Judicial Magistrate Court, Maduranthakam.

2. The facts in brief are as under:

On 15.04.2019, when the PEW Police were on rounds, they
found a person (the petitioner herein) moving about suspiciously
by a Hero Honda CD Delux (in short "the vehicle"), bearing
Registration No.TN-19-Y-1847. They intercepted the vehicle and
on questioning him, the petitioner disclosed his name as C.Durai
Selvam S/o. Chellappan. The petitioner was in possession of
around fifteen bottles of IMFL. Hence, a case in Crime No.93 of
2019 was registered under Section 4(1)(a) of the Tamil Nadu
Prohibition Act (for brevity "the TNP Act") and the petitioner
was arrested. The contraband and the vehicle were seized.

3. After release on bail, the petitioner filed
C.M.P.No.3871 of 2019 in Crime No.93 of 2019 before the Judicial

Magistrate Court, Maduranthakam, under Section 451 Cr.P.C. for interim custody of the vehicle, which has been dismissed on 07.06.2019, challenging which, the petitioner is before this Court.

4. Heard Mr.R.Krishnan, learned counsel for the petitioner and Mr.G.Ramar, learned Government Advocate (Crl. Side) for the respondent/State.

5. The Trial Court has dismissed the petition for interim custody of the vehicle on the ground that the police have not produced the vehicle before the Court.

6. In David Vs. Shakthivel¹, a Division Bench of this Court has laid down broad guidelines for entertaining a petition filed under Section 451 Cr.P.C., in respect of the vehicles seized under the TNP Act.

7. In this case, the Investigating Officer has sent a report to the Additional Superintendent of Police for initiating confiscation proceedings, but, till date, the Additional Superintendent of Police has not initiated any proceedings.

8. Under such circumstances, this Court directs the police to produce the vehicle before the Judicial Magistrate Court, Maduranthagam, within one week from the date of receipt of a copy of this order. This Court further directs interim custody of the vehicle to the petitioner on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties each, to the satisfaction of the Judicial Magistrate Court, Maduranthagam.

(ii) The Magistrate and the police shall make arrangements to take photographs and videographs of the vehicle and prepare a panchanama.

(iii) The panchanama, photographs and videographs can be used as a substantive piece of evidence during trial to show that the contraband was transported in the said vehicle.

(iv) The petitioner shall submit the RC book of the vehicle to the Trial Court.

¹ 2010 (1) MLJ (Cri) 929

(v) The petitioner shall give an undertaking that he will participate in the confiscation proceedings that may be initiated by the Additional Superintendent of Police, PEW.

(vi) The petitioner shall undertake that he would not alienate the vehicle.

In the result, this criminal revision petition is allowed. If the petitioner seeks any further modification, including the return of the RC book or for disposal of the vehicle, he may approach the Judicial Magistrate Court, Maduranthagam, though this order has been passed by this Court.

Sd/-
Assistant Registrar(Insp.cell)

//True copy//

Sub Assistant Registrar

nsd

To

1. The Judicial Magistrate,
Maduranthagam.
2. -do- Through 'The Chief Judicial Magistrate,
Kancheepuram
3. The Sub-Inspector of Police,
Cheyyur Police Station,
Kancheepuram District.
4. The Public Prosecutor, High Court, Madras

+1cc to Mr.R.Krishnan, Advocate SR.No.63921

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LN(CO)
GMY(08/08/2019)