

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 22.07.2019

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.R.C.No.642 of 2019

P.Sivagnana Sakthivel
S/o.Perumal

... Petitioner/Petitioner

-Vs-

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

... Respondent/Respondent

Criminal Revision Petition filed under section 397 r/w 401 of the Code of Criminal Procedure to call for the records relating to the order dated 07.06.2019 in C.M.P.No.2585 of 2019 passed by the learned Judicial Magistrate, Maduranthakam and set aside the same.

For Petitioner : Mr.M.Maruthu Pandian

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

O R D E R

This Criminal Revision has been filed to call for the records and set aside the order dated 07.06.2019 passed in C.M.P.No.2585 of 2019 by the learned Judicial Magistrate, Maduranthakam.

2. During regular rounds, P.E.W. police noticed a person moving suspiciously in a Hero Livo motor cycle bearing Registration No.TN-19-T-5925. The police intercepted the vehicle and on checking, they found that the petitioner was carrying a bag containing 48 bottles of IMFL and hence, arrested him. Thereafter, a case in Crime No.91 of 2019 was registered on 15.04.2019 under Section 4(1)(a) of the Tamil Nadu Prohibition Act against the said Murugan. The vehicle was also seized, however, was not reported to the Jurisdictional Magistrate. While that being so, the petitioner, who is the owner of the vehicle filed C.M.P.No.2585 of 2019 under Section

451 Cr.P.C before the Judicial Magistrate, Maduranthakam, seeking interim custody of the said vehicle. The learned Judicial Magistrate has dismissed the same on 07.06.2019, challenging which, the petitioner is before this Court.

3. Heard Mr.M.Maruthu Pandian, learned counsel for the petitioner and Mr.G.Ramar, learned Government Advocate (Crl. Side) for the respondent.

4. On instructions, the learned Government Advocate submitted that the confiscation proceedings have been initiated by the Additional Superintendent of Police, P.E.W and the proceedings are yet at the stage of notice.

5. In David Vs. Sakthivel, Inspector of Police e-cum-Station House Officer, Prohibition Enforcement Wing, Tindivanam Villupuram District, [2010] 1 MLJ (Crl) 929, a Division Bench of this Court has held that, before ordering interim custody of a vehicle involved in a prohibition offence, the Court should be circumspect. The petitioner has not been shown as accused in this case. He has also not received any notice from the Additional Superintendent of Police, P.E.W., in the confiscation proceedings.

6. In such view of the matter, no prejudice would be caused if interim custody of the vehicle is granted to the petitioner.

7. In the result, this Criminal Revision Petition is allowed and the order dated 07.06.2019 passed by the learned Judicial Magistrate, Maduranthakam in C.M.P.No.2585 of 2019 is set aside.

8. The police is directed to hand over the custody of the vehicle to the learned Judicial Magistrate, Maduranthakam, within one week from the date of receipt of a copy of this order. The learned Judicial Magistrate, Maduranthakam is directed to hand over the interim custody of the vehicle to the petitioner on he executing a bond for Rs.25,000/- with two sureties. The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc. The petitioner and the sureties shall affix their photographs and give the copies of their AADHAR Card. The Additional Superintendent of Police, PEW, is directed to issue notice to the petitioner in the event

of initiating confiscation proceedings. The petitioner shall not alienate the vehicle without the permission of the learned Judicial Magistrate, Maduranthakam, though this Court has passed this order.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate,
Maduranthakam.
- 2.-Do- Thro The Chief Judicial Magistrate,
Kancheepuram.
- 3.The Additional Superintendent of Police
P.E.W., Thiruvannamalai District.
- 4.The Sub Inspector of Police,
Cheyyur Police Station,
Kancheepuram District.

Copy to

The Public Prosecutor
High Court, Madras.

+lcc to Mr.R.Krishnan, Advocate Sr.62494

Cr1.RC.No.642 of 2019

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srg 08/08/2019