

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.10.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.1053 of 2019

Saravanan

... Petitioner/Accused

Vs.

State: Inspector of Police,
Prohibition Enforcement Wing,
Vaniyambadi.

.... Respondent/Complainant

PRAYER: The Criminal Revision Petition has been filed, under Sections 397 & 401 of Cr.P.C, to set aside and revise the order passed by the learned Judicial Magistrate, Vaniyambadi in Crl.M.P.No.4530 of 2019, dated 16.09.2019 filed in Cr.No.175 of 2019 on the file of the respondent.

For Petitioner : Mr.K.S.Kaviarasu

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

J U D G M E N T

This Revision Petition has been filed against the order passed by the Judicial Magistrate, Vaniyambadi in Crl.M.P.No.4530 of 2019 in Cr.No.175 of 2019, dismissing the petition filed under Section 451 Cr.P.C., seeking for return of vehicle.

2. The petition is a third party and owner of Mahendra Car, bearing registration No.TN-09-BM-9833. The vehicle was seized by the respondent police in Cr.No.175 of 2019, registered for the offence under Sections 4(1)(aaa) & 4(1-A) of the Tamil Nadu Prohibition Act and read with Sections 6 & 7 of the Tamil Nadu Rectified Sprit Rules, 2000, on the allegation that vehicle was used for transport of illegal liquor/rectified sprit. The petitioner being the owner of the vehicle had filed a petition seeking for return of vehicle. The petitioner had stated that the accused in this case, who is his brother had borrowed his vehicle and that without his knowledge, it has been stated to have been involved in an offence under the Prohibition Act. He would submit that the petitioner require the said vehicle for his family and hence, he had filed the petition seeking return

of vehicle. The respondent had filed a counter. The trial Court finding that the petitioner is involved in previous cases and finding that the confiscation proceedings has been initiated by the respondent, had dismissed the application. As against which, the present revision has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is not an accused in this case and that till date no notice has been issued by the respondent and initiated the confiscation proceedings against him. He would submit that if the vehicle is allowed to the park in the respondent police station, the vehicle would get damage, thereby, the value of the vehicle will be reduced and cause hardship to the petitioner. He would also submit that the vehicle is used by him for transporting his aged mother from his home to the hospital and due to the non availability of the vehicle, the petitioner and his family members are put be severe hardship.

4. The respondent has filed a counter, wherein it has been stated that on 27.04.2019, while, the respondent along with his team was on patrol duty, they have intersepted the vehicle and the said vehicle was found in transportation of 175 liquors of rectified sprit mixed with poisonous substances and that a case in Crime No.175 of 2019 had been registered under the relevant provisions viz., Tamil Nadu Prohibition Act and the Tamil Nadu Rectified Sprit Rules, 2000. Further it has been stated that the summons has been served on the family members of the petitioner.

5. This Court in the judgment reported in (2011) 4 MLJ (Crl) - [Sakthidevi Vs. State by the Inspector of Police, Thittachery Police Station, Nagapattinam District] has held that pendency of confiscation proceedings is not a bar for returning the vehicle.

6. In such circumstances, this Court is of the opinion that there is no purpose in keeping the vehicle idle in the respondent police station which will result in the value of the vehicle getting diminished.

7. Accordingly, this criminal revision petition is allowed and the impugned order passed by the learned Judicial Magistrate, Vaniyambadi in Crl.M.P.No.4530 of 2019, in Crime No. 175 of 2019, dated 16.09.2019, is hereby set aside and that the interim custody of the vehicle bearing registration No.TN-09-BM-9833 is herein ordered to be returned to the petitioner, subject to the following conditions:

- a. The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One lakh Only) with two sureties.
- b. The petitioner shall produce the RC Book of the vehicle

before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court for trial.

c. The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

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To

1.The Judicial Magistrate,
Vaniyambadi.

2.The Public Prosecutor,
High Court, Madras.

3.The Inspector of Police
Prohibition and Enforcement Wing
Vaniyambadi

+1 CC to Mr.K.S.Kaviarasu Advocate sr 89580.

Cr1.RC.No.1053 of 2019

RK(CO)
SP(30/10/2019)

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