

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 04.11.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.1099 of 2019

Elizabeth

..Petitioner/Petitioner

Vs

State represented by
Inspector of Police
Cheyyur Police Station
Kancheepuram District
(Crime No.96 of 2019)

..Respondent/Complainant

Prayer:- This Criminal Revision has been filed, under Section 397 read with 401 of Cr.P.C., to call for the records relating to the order dated 27.06.2019 in C.M.P.No. 4651 of 2019 passed by the learned Judicial Magistrate, Maduranthakam and set aside the same.

For Petitioner : Mr.R.Krishnan
For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor,

ORDER

The Petition has been filed seeking the relief to set aside the order dated 27.06.2019 passed in C.M.P.No. 4651 of 2019 by the Judicial Magistrate dismissing the petition filed Under Sections 451 & 457 of Cr.P.C. seeking for return of the property/vehicle. On 15.04.2019 at about 7.30 hours, while the respondent/Police Team was doing vehicle check-up at North Cheyyur Bus stop, Cheyyur to Punjur Road, the accused namely Joseph, came there in a Hero Honda Splender bearing Reg.No.TN-19-Y-2472 and during check-up, in the said vehicle, without having any licence and permission, the accused had illegally transported 48 numbers of Brandy bottles. Thereafter, the respondent arrested the accused and recorded his confession. Further, the brandy bottles along with two wheeler were seized under the cover of seizure mahazar, in the presence of police witnesses and the same were taken into police station at about 18.30 hours. On 15.04.2019 at about 18.30 hours, a case was registered in Cheyyur P.S. in Crime No. 96 of 2019, under

Section 4(1)(a) of TNP Act, [Transport] against the accused. The case has been taken up for investigation. On the same day, the accused was released on station bail itself.

2. During the course of investigation, the respondent Police recorded the statement of Tr.Mariappan, HC-1511, and Tr.Muthukumar, Gr-I-1325. During the course of investigation, he has produced the seized vehicle i.e Hero Honda Splender bearing Reg No.TN-19-Y2472 before the Additional Superintendent of Police, Kancheepuram for confiscation proceedings.

3. During the course of investigation, the petitioner namely Elizabeth, W/o.Mariyappan, owner of the seized Hero Honda Splender two wheeler bearing Reg.No.TN-19-Y-2472 filed a Petition before the Judicial Magistrate Court, Maduranthagam, in C.M.P.No. 4651 of 2019 for return of the said two wheeler. The said petition was dismissed on 27.06.2019, as against which, the present Criminal Revision Petition is filed.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the offending vehicle. Further, she is not an accused and the Vehicle was used by her husband Mariappan without her knowledge and a case has been registered against him for the offence under Section 4(1)(a) of TNP Act. He would submit that during the pendency of proceedings the Vehicle may be returned. He would submit that, otherwise the value of the vehicle would get diminished and the utility value will get affected. Thus he prays for return of vehicle.

5. The learned Public Prosecutor appearing for the respondent has filed a counter affidavit and stated that the vehicle was seized from one Joseph and the case was registered in Crime No. 96 of 1999 for the offence, under the Prohibition Act. He would states that the confiscation proceedings are still pending on the file of the Additional Superintendent of Police.

6. Admittedly, the petitioner is the owner of the property. The petitioner is not an accused in the case.

7. Upon considering either side submissions, this Court is of the opinion that pendency of the confiscation proceedings is not a bar for return of vehicle and therefore, the Revision Petition is allowed, on the following conditions;

(1) Accordingly, this Court orders for return of the vehicle to the petitioner on condition that the petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties to the satisfaction of the Judicial Magistrate Court, Maduranthagam.

2) The Original R.C. Book shall be produced before the Trial Court.

3) The petitioner shall file an affidavit of undertaking that she will produce the vehicle before the Court or before the investigating Authorities whenever the same is required.

4) The petitioner shall not dispose of the vehicle.

5) The petitioner shall make herself available before the Authority in the confiscation proceedings and investigation.

8. With the above conditions, the Criminal Revision Petition stands allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

To:

1. The Judicial Magistrate,
Maduranthakam

2. The Inspector of Police,
The State of Tamil Nadu,
Cheyyur Police Station,
Kancheepuram District.

3. The Public Prosecutor,
High Court of Madras, Chennai -104.

+1 cc to M/s.R.Krishnan, Advocate Sr.No. 92048

AKM/29.11.19/3P-5C /

Cr1.R.C.No.1099 of 2019