



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 09.12.2019

CORAM

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

W.P.No.34210 of 2019
and
W.M.P.No.34843 of 2019

R.Vinoth@Vignesh

... Petitioner

Vs.

1. The Additional Superintendent of Police,
Prohibition and Enforcement Wing,
Tiruppur District.

2. The State Rep. By its
The Inspector of Police,
Udumalpet Police Station,
Tiruppur District.

...Respondents

PRAYER: Writ Petition filed under Article 226 of Constitution of India, to issue a Writ of Certiorari, to call for the records of impugned order bearing No.Na.Ka.No.17.P.Mu / Ku.Ka.K/Ma.Vi/Tiruppur/2019 dated 18.11.2019 on the file of 1st respondent and quash the same.

For Petitioner : Mr.K.Myilsamy

For Respondents : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Writ petition has been filed to set aside the order to issue a Writ of Certiorari, to call for the records of impugned order bearing Number Na.Ka.No.17.P.Mu/Ku.Ka.K/Ma.Vi/Tiruppur/2019 dated 18.11.2019 on the file of 1st respondent and quash the same.

2. The learned counsel for the petitioner has submitted that the second respondent has registered a case against the petitioner in Crime No.497 of 2019 for the alleged offences under Section 4(1) (a) of Tamil Nadu Prohibition Act (Transport)



on 19.09.2019. He further submitted that in pursuance of the said FIR, the second respondent seized the petitioner's vehicle viz., two wheeler bearing registration No.TN-78- Q- 1193 and hence, the petitioner has moved an application in Crl.M.P.No.4631 of 2019 on the file of the Judicial Magistrate No.1, Udumalpet seeking interim custody. He further submitted that the Judicial Magistrate No.1, Udumalpet by the order dated 31.10.2019 passed an order for interim custody to the said vehicle, but, ignoring the said order, the first respondent has passed an order on 18.11.2019 confiscating the said vehicle. He further submitted that before passing the said impugned order, the first respondent did not issue notice to the petitioner and hence it is vitiated.

3. The learned Additional Public Prosecutor has submitted that when the second respondent attempted to serve notice to the petitioner, he was not available in his address, hence notice was served by affixing in the door of his house and thereafter the first respondent has passed an order by invoking the powers under Section 14(4) Tamil Nadu Prohibition Act 1937. He further submitted that if the petitioner feels aggrieved by the said order, he has to file an appeal before the Sessions Judge as contemplated under Section 14(5) of the said Act and hence, he strongly opposed to allow this petition.

4. Admittedly the impugned order has been passed by the first respondent under Section 14(4) of Tamil Nadu Prohibition Act 1937. At this juncture, it would be relevant to refer to Section 14(5) of the Tamil Nadu Prohibition Act 1937 which reads thus:

" any person aggrieved by an order of confiscation under Sub Section (4) may, within one month from the date of receipt of such order, appeal to the Court of Session having jurisdiction".

5. From the aforesaid provisions, it is clear that if the petitioner is aggrieved by the order of confiscation passed by the first respondent, he has to file an appeal before the court of Session having jurisdiction. Hence this writ petition is not maintainable and the same is liable to be dismissed. Accordingly, this writ petition is dismissed. No costs. Consequently, connected miscellaneous petition is closed. It is open to the petitioner to file an appeal before the concerned Sessions Court.

Sd/-
Assistant Registrar(CS)

//True Copy//

Sub Assistant Registrar

vv/ebsi



To

1. The Additional Superintendent of Police,
Prohibition and Enforcement Wing,
Tiruppur District.

2. The Inspector of Police,
Udumalpet Police Station,
Tiruppur District.

3. The Public Prosecutor,
Madras High Court,
Chennai.

+1cc to Mr.K.Myilsamy , Advocate SR.No. 102463

W.P.No.34210 of 2019

and

W.M.P.No.34843 of 2019

A.SK(13/12/2019)