

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

Date of Reservation	25.03.2019
Date of Order	17.06.2019

WEB COPY

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC (MD) No.18 of 2019

Masilamani : Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
Thiruneelakudi Police Station,
Thanjavur District.
(Crime No.152 of 2018)

: Respondent/Complainant

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 30.11.2018 made in Crl.M.P.No.5797 of 2018 on the file of the Judicial Magistrate No.I, Kumbakonam, in connection with a case in Crime No.152 of 2018.

For Revision Petitioner : Mr.R.M.Arun Swaminathan

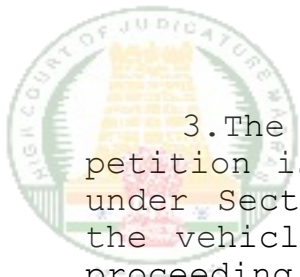
For Respondent : Mr.A.Robinson
Government Advocate
(Criminal side)

O R D E R

The petitioner claims to be the owner of the vehicle (Ashok Ley Land DOST LS) bearing Registration No.PY-02-R-0240. According to the petitioner, the alleged vehicle was seized by the respondent police on 24.10.2018 in connection with a case in Crime No.152 of 2018 for the offences under Sections 4(1)(aaa) and 4(1-A) of Tamil Nadu Prohibition Act. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate No.I, Kumbakonam, for interim custody. The learned Judicial Magistrate, by order, dated 30.11.2018, has dismissed the same. Challenging the said order, the petitioner is before this Court with this criminal revision.

2.Heard the learned counsel appearing on either side and perused the materials available on record.

<https://hcservices.ecourts.gov.in/hcservices/>



3.The only ground upon which the lower court has dismissed the petition is that already confiscation proceeding had been initiated under Section 14(4) of the Tamil Nadu Prohibition Act, as against the vehicle in question. According to the lower court, since such proceeding was pending, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Judicial Magistrate is not correct. It is well settled that during the pendency of confiscation proceeding, the vehicle needs to be returned to the person, who is entitled to have. This return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

4.In view of the above, this criminal revision is **allowed** and the order of the learned Judicial Magistrate No.1, Kumbakonam, passed in in CrI.M.P.No.5797 of 2018, dated 30.11.2018 is set aside and the learned Judicial Magistrate is directed to return the vehicle to the petitioner subject to the confiscation proceedings on the following conditions:-

(a)The petitioner shall deposit the original Registration Certificate of the vehicle;

(b)The petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen thousand only) to the credit of Crime No.152 of 2018 on the file of the Judicial Magistrate No.I, Kumbakonam, within a period of two weeks from the date of receipt of a copy of this order;

(c)The petitioner shall not make any alteration of the vehicle; and

(d)The petitioner shall produce the vehicle before the Court as and when required, until final order is passed in the confiscation proceedings.

5.The Authority under the Tamil Nadu Prohibition Act may proceed with the confiscation proceeding and the petitioner shall obey any order that may be passed in the said proceeding by the Authority.

Sd/-
Assistant Registrar

/TRUE COPY/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.I,
Kumbakonam.

<https://hcservices.ecourts.gov.in/hcservices/>

2. Do Through The Chief Judicial Magistrate,
Thanjavur at Kumbakonam.



3.The Inspector of Police,
Thiruneelakudu Police Station,
Thanjavur District.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1. C.C. to M/S.R.M.Arun Swaminathan, Advocate SR.No. 69029

Order made in
Crl.R.C (MD) No.18 of 2019
17.06.2019

KK-SAR 1/17.06.2019/3P-6C