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

Date of Reservation	30.04.2019
Date of Order	17.06.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI**Cr1.RC(MD)No.217 of 2019**

K.Sridhar : Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
PEW Kumbakonam Police Station,
Thanjavur District. : Respondent/Complainant
(Crime No.1085 of 2018)

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 23.01.2019 made in Cr.M.P.No.91 of 2019 on the file of the Judicial Magistrate No.I, Kumbakonam, in connection with a case in Crime No.1085 of 2018.

For Revision Petitioner : Mr.Ma.Karunanithi

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

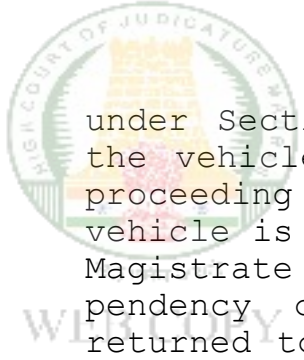
O R D E R

The petitioner claims to be the owner of the vehicle (Hero Splendor Plus) bearing Registration No.TN-68-S-7416. According to the petitioner, the accused had taken the vehicle of the petitioner on 30.12.2018, but he has not returned to the petitioner's shop, nor vehicle was returned to him and on enquiry, the petitioner came to know that the accused involved in a crime in connection with the case in Crime No.1085 of 2018 for the offence 4(1)(aaa) r/w 4(1-A) TNP Act and 294(b) and 307 IPC and the vehicle was also seized. 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 23.01.2019, 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 Crl.M.P.No.91 of 2019, dated 23.01.2019 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.10,000/- (Rupees Ten thousand only) to the credit of Crime No.1085 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 same 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(CS)



To

1. The Judicial Magistrate No.I,
Kumbakonam.

2. The Inspector of Police,
PEW Kumbakonam Police Station
Thanjavur District.

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

+1cc to Mr.M.KARUNANITHI, Advocate, SR.No. 69015

Order made in
Cr1.R.C (MD) No.217 of 2019
16.06.2019

ER
KK/SAR/17.06.2019/3P-5C