

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 08.03.2019****CORAM****THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI****Cr1.RC(MD)No.76 of 2019**

Raja : Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
Manikandam Police Station,
Trichy District.
(Crime No.142 of 2018)

: Respondent/Respondent

Prayer: This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 22.01.2019 made in Cr.M.P.No.19 of 2019 on the file of the Judicial Magistrate No.IV, Trichy, in connection with a case in Crime No.142 of 2018 and consequently direct the Trial Court to return the Vehicle bearing Regn. No.TN-48-AC-3345 to the petitioner.

For Revision Petitioner : Mr.M.Suresh

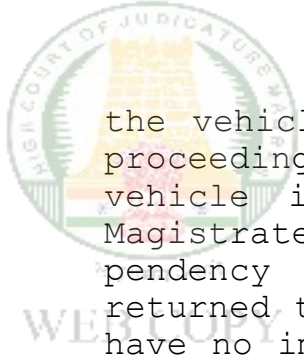
For Respondent : Mr.A.Rabinson
Government Advocate
(Criminal side)

ORDER

The petitioner claims to be the owner of the vehicle (TVS Jupiter Bike) bearing Registration No.TN-48-AC-3345. On 12.11.2018, the respondent found the said vehicle carrying Brandy Bottles in violation of the provisions of the Tamil Nadu Prohibition Act. The respondent registered a case in Crime No.142 of 2018 under Section 4(1)(a) of the Tamil Nadu Prohibition Act and seized the said vehicle. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate No.IV, Trichy, for interim custody. The learned Magistrate, by order, dated 22.01.2019, has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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

<https://hcservices.ecourts.gov.in/hcservices/> On the 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 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 revision is **allowed** and the order of the learned Magistrate in CrI.M.P.No.19 of 2019 is set aside and the learned Magistrate is directed to return the vehicle subject to the confiscation proceedings to the petitioner 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.142 of 2018 on the file of the Judicial Magistrate No.IV, Trichy, 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;

(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 proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority.

Sd/-

Assistant Registrar (CS-III)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Judicial Magistrate No.IV,
Trichy.



2.The Inspector of Police,
Manikandam Police Station,
Trichy District.

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

+1CC TO MR.M.SURESH, Advocate Sr. No.52896

Order made in
Crl.R.C (MD) No.76 of 2019
08.03.2019

TR (21.03.2019) 3P 5C