



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.07.2019

CORAM

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.259 of 2019

Kalaiselvam : Petitioner/Owner of the Vehicle/A1

Vs.

State represented by
The Inspector of Police,
CSCID,
Virudhungar,
Virudhungar District
(Crime No.142 of 2017)

: Respondent/Respondent

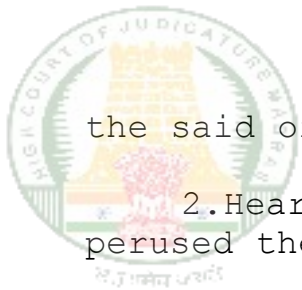
Prayer: This Criminal Revision has been filed under Section 397(1) r/w 401 of Criminal Procedure Code, against the order, dated 29.05.2018 made in Cr.M.P.No.1357 of 2018 on the file of the Judicial Magistrate No.I, Virudhungar and direct the respondent herein to grant the interim custody of the BOLERO MAXI TRUCK PLUS-2WD BSIII bearing registration No.TN-69-AL-9307, which has been seized by the Respondent herein in Crime No.142 of 2017.

For Revision Petitioner : Mr.N.Dilip Kumar

For Respondent : Mr.APG Ohm Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

The petitioner claims to be the owner of the vehicle (BOLERO MAXI TRUCK PLUS-2 WD BSHI) bearing Registration No.TN-69-AL-9307. On 12.11.2018, the respondent found the said vehicle carrying Brandy Bottles in violation of the provisions of the Tamil Nadu Prohibition Act. In this regard, the respondent registered a case in Crime No.142 of 2017 for the offence under Section 6(2)(3), 6(4) of TNSC (RDCS) Order, 1982 r/w 7(1)(a)(ii)EC, Act 1955 and seized the said vehicle. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate No.1, Virudhungar, for interim custody. The learned Magistrate, by order, dated 29.05.2018, has dismissed the same. Challenging



the said order, the petitioner is before this Court.

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

3. The only ground upon which the lower court has dismissed the petition stating that a report under Section 6(A) of the Essential Commodities Act, 1955 was submitted and the confiscation proceedings is pending. 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 criminal revision is **allowed** and the order of the learned Judicial Magistrate No.1, Virudhunagar, in CrI.M.P.No.1357 of 2018 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 2017 on the file of the Judicial Magistrate No.I, Virudhunagar, 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.

Sd/-

Assistant Registrar (AD-II)

// True Copy //



To,

The Judicial Magistrate No.I,
Virudhunagar.

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+1 CC to M/s.N.DILIP KUMAR, Advocate (SR-74271[F] dated
09/07/2019)

ER

Order made in
Crl.R.C (MD) No.259 of 2019
09.07.2019

KM/ (22.07.2019) 3P 3C