

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HONOURABLE MR. JUSTICE T. RAVINDRAN

CrI.O.P.No. 16531 of 2020

M. Hariharan
S/o. Murugan

... Petitioner

Vs.

State rep. by
Inspector of Police
Prohibition Enforcement Wing(South)
Adayaru, Chennai

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C., praying to direct the respondent police to release the vehicle bearing Registration No.TN 79 E4732, Pulsar NS200, Passion Red Mattee colour to the petitioner subject to any condition that may be imposed by this Hon'ble Court.

For Petitioner : Mr. A.Athimoolam

For Respondent : Ms. M. Prabhavathi
Additional Public Prosecutor

O R D E R

The Criminal Original Petition has been laid by the petitioner seeking for a direction to the respondent police to release the vehicle bearing Registration No.TN 79 E4732, Pulsar NS200, Passion Red Mattee colour to the petitioner on appropriate conditions as may be imposed by this court.

2. According to the petitioner, his vehicle had been seized by the respondent police on the footing that he had been transporting 40 numbers of quarter bottles and the vehicle is now under the custody of the respondent police. However, according to the petitioner, he or his vehicle is not involved in any case as alleged by the respondent police and the vehicle had been unnecessarily detained by the respondent police and the petitioner is eking out his livelihood only depending upon the vehicle and if the vehicle is not returned to him, his livelihood would be seriously affected and the vehicle in the custody of the respondent police, if exposed to

sun and light, it would affect the material value of the vehicle and therefore, according to him, he has been necessitated to lay the present Criminal Original Petition for appropriate reliefs.

3. When the matter was taken up for enquiry, the Additional Public Prosecutor sought time to entrust the vehicle to the Magistrate Court for further process. However, till date, the vehicle belonging to the petitioner has not been entrusted to the jurisdictional Magistrate Court and today when the matter is taken up for consideration, it is represented by the Additional Public Prosecutor that the vehicle is pending with the Deputy Superintendent of Police for confiscation proceedings and further submitted that a suitable direction may be given to the respondent police to entrust the vehicle to the Jurisdictional Magistrate Court and also to the court concerned for releasing the vehicle to the petitioner on appropriate conditions.

4. Now according to the respondent police, the petitioner's vehicle is involved in the prohibition case and as rightly put forth by the petitioner, the pendency of the case against him would not deter the petitioner from seeking the interim custody of the vehicle and if the vehicle is allowed to continue in the custody of the respondent police and expose to sun and light, the material value of the vehicle would be deteriorated and further when the petitioner is depending his livelihood only on the abovesaid vehicle, as held by the Apex Court and also the Judgment of this Court dated 09.12.2015 in CrI. RC (MD) No. 563/18 (Balamurugan Vs. State rep. by Inspector of Police Prohibition Enforcement Wing (PEW) (PS), Pudukottai, Thanjavur District), the release of the vehicle to the owner is mandatory and the confiscation proceedings would not be a bar to the entitlement of the petitioner for seeking the interim custody of the vehicle seized by the respondent police.

5. It is represented that the concerned Jurisdictional Magistrate Court is Judicial Magistrate No.I, Alandur.

6. Taking into consideration the abovesaid factors, the respondent police is directed to entrust the vehicle bearing Registration No.TN 79 E4732, Pulsar NS200, Passion Red Mattee colour, to the Jurisdictional Magistrate i.e The Judicial Magistrate No.I, Alandur, within three days from the date of receipt of a copy of this order and the petitioner is also further directed to file necessary petition before the Jurisdictional Magistrate for seeking the interim custody of the vehicle and on the presentation of said petition, the Jurisdictional Magistrate, i.e., The Judicial Magistrate No.I, Alandur, is directed to take up the petition on file and after considering the entitlement of petitioner to seek the interim

custody of the vehicle and also noting the objections put forth by the respondent police, dispose of the petition in accordance with law expeditiously.

7. Accordingly, the Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

bga

To

1.The Judicial Magistrate No.I, Alandur

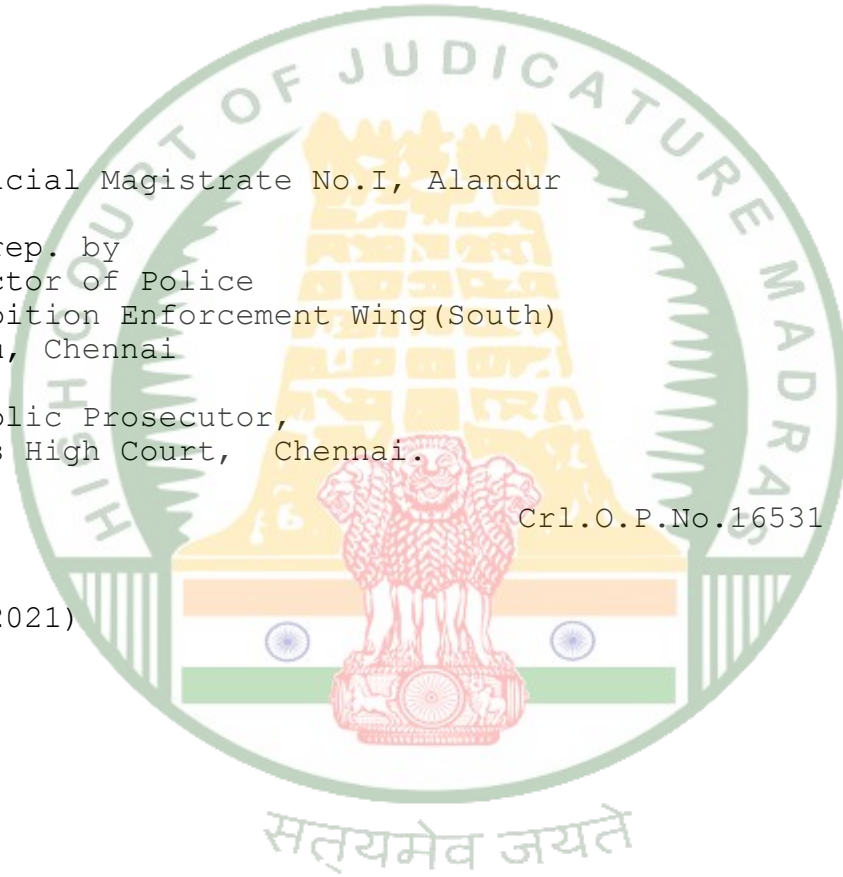
2. State rep. by
Inspector of Police
Prohibition Enforcement Wing(South)
Adayaru, Chennai

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

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PM(CO)

CB(18/01/2021)



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