



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated: 10.03.2020

WEB COPY

CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.RC(MD)No.191 of 2020

Arun Pandian : Petitioner/Petitioner/Owner of the Vehicle

Vs.

The State rep by its
The Inspector of Police,
PEW-Madurai City Police Station,
Madurai District.

(Crime No.1282 of 2019) : Respondent/Respondent/Complainant

Prayer: Criminal Revision filed under sections 397 and 401 of the Code of the Criminal Procedure against the order of the Judicial Magistrate No.VI, Madurai, dated 06.02.2020 in Crl.MP No.334 of 2020 in Crime No.1282 of 2019 filed by the petitioner under sections 451 and 457 of Cr.P.C.

For Petitioner : Mr.V.Nirmal Kumar

For Respondent : Mr.A.P.G.Ohm Chairma Prabhu
Government Advocate (Crl.Side)

O R D E R

Being aggrieved by the order made in Crl.M.P.No.334 of 2020 in Crime No.1282 of 2019, dated 06.02.2020 on the file of the learned Judicial Magistrate No.VI, Madurai, the present criminal revision case is filed.

2.Case of the petitioner is that he is the owner of the vehicle TN-13-B-4780 Honda Mobileo Car. Alleging that 192 Liquor Bottles were found in the vehicle on 25.12.2019, vehicle has been seized. The petitioner has filed C.M.P.No.334 of 2020 in Cr.No.1282 of 2019 under Sections 457 and 451 Cr.P.C., for interim custody of the vehicle. The learned Judicial Magistrate No.VI, Madurai, has ~~dismissed the~~ petition, as confiscation proceedings have already been initiated.



3. Assailing the correctness of the said order, learned counsel for the petitioner submitted that notwithstanding the proceedings initiated for confiscation under the Tamil Nadu Prohibition Act, power of the Court under Sections 451 and 457 Cr.P.C., has not been taken away, for directing release of the vehicle.

4. By inviting the attention of this Court to Section 14(4) of the Tamil Nadu Prohibition Act, 1937, learned Government Advocate (Criminal side), objected to the relief sought for. He submitted that when confiscation proceedings have already been initiated, the petitioner is not entitled to seek for interim custody, under the Code.

5. Heard the learned counsel for the parties and perused the materials available on record.

6. Before proceeding to exercise the jurisdiction under Sections 451 or 457 Cr.P.C. in respect of the vehicle involved in the commission of prohibition offence, Court has to ascertain from the Prosecutor whether any confiscation proceedings has been initiated by the District Collector/Prohibition Officer or authorised Officer as contemplated under Section 14(4) of TNP Act. Only after affording sufficient opportunity, Court could proceed to exercise its jurisdiction and keeping in view the spirit of Section 14(4) of TNP Act, Court to pass appropriate speaking order.

7. It is pertinent to note that as against the order passed under Section 14(4) of TNP Act, appeal lies before the Court of Sessions having jurisdiction. For instance let us assume that order of confiscation has been passed by the District Collector or other Prohibition Officer incharge of the District or any other authorised officer. Under Section 14(5) of TNP Act, any person aggrieved by the order of confiscation under Section 14(4) of the Act within one month may appeal to the Court of Sessions having jurisdiction. In such case, where an order of confiscation has been passed, if Magistrate has to pass an order for interim custody, evidently Magistrate would be transgressing upon the powers of the Executive and Sessions Judge. To avoid such situation, in dealing with the vehicles involved in a prohibition offence, exercise of powers of the Court under Sections 451 or 457 Cr.P.C. should always be with due care and caution.

8. In the case on hand, confiscation proceedings have already been initiated by the competent authority, under Section 14(4) of the Act, by issuance of a show cause, this Court is of the view that the impugned order of the Court below, in dismissing the petition, for return of the vehicle, alleged to have been involved in Cr.No.1282 of 2019 for the offences under the TNP Act, cannot be



9. For the reasons, stated supra, this Court is not inclined to interfere with the impugned order. Hence, this Criminal Revision Case disposed of giving liberty to the petitioner to file appeal before the concerned Sessions Court.

WEB COPY

Sd/-

Assistant Registrar (CS-III)

// True Copy //

/ /2020

Sub Assistant Registrar (CS)

To

1. The Judicial Magistrate No. VI,
Madurai.
2. The Inspector of Police,
PEW-Madurai City Police Station,
Madurai District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Cr1.RC (MD) No. 191 of 2020
10.03.2020

er

SDS (21.09.2020) 3P-4C