



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.09.2020

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P. (MD)No.10136 of 2020 and
WMP(MD)Nos.9019 & 9021 of 2020

WEB COPY

Mahalingam

...Petitioner

Vs.

1.The Additional Superintendent of Police,
Ramanathapuram District, Ramanathapuram.

2.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.

...Respondents

Prayer: Writ petition is filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the first respondent in his proceedings 90-1/ parimuthal / Kaa.Koo.Kaa /Po/Ma.VI.Aa/Pi/ Erama/2019 dated 03.04.2020 and quash the same as illegal, consequently, directing the first respondent to release the petitioner's Hyundai i20 Asta Car bearing Registration No.TN 12 E 5144 seized by the second respondent on 25.12.2009.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.Rajarajan

Additional Government Pleader

O R D E R

Heard the learned counsel on either side.

2. The petitioner is the owner of the petition mentioned vehicle. The petitioner had lent it to his brother and co-brother on 25.12.2019. It appears that those two persons had purchased 49 bottles of IMFL, (each contains 180 ml) and carried the same in the petitioner's car. The car was intercepted and seized. A criminal case was also registered against the concerned persons in Cr.No.284 of 2019, on the file of Thiruvadanai police station, under Section 4 (1) (a) of Tamilnadu Prohibition Act. The petitioner's vehicle has been confiscated by the impugned order. The same is questioned in the writ petition.

3. Normally, I would have relegated the petitioner to move the Sessions Court by filing criminal appeal against the said confiscation order. But the petitioner's counsel submitted that no factual aspects need to be gone into. The only argument adduced by the petitioner's counsel is that the case on hand is covered by G.O. Ms. No. 75 B&E, dated 16.04.1996. Vide the said G.O, the



Government had issued the Tamil Nadu Liquor (Possession for personal consumption) Rules, 1996. Rule 2 reads as follows:-

2.Possession of liquor for personal consumption- No person shall possess the liquor mentioned in column (1) of the Table below, which have already been specified under sub-clause (i) of clause (j) of sub-section (I) of Section 4 of the Tamil Nadu Prohibition Act 1937 (Tamil Nadu Act X of 1937) for personal consumption, in excess of the quantity specified in the corresponding entries in column (2) thereof.

1 TABLE

**Amended vide G.O.(MS) No.14, H.P & EVI Department,
dated 09.06.2017.**

Liquor (1)	Quantity (in Litres) (2)
(1) Indian made Foreign Spirits	4.5
(2) Foreign Liquor	4.5
(3) Beer	7.8
(4) Wine	9.0

4.Thus, a single individual can possess 4 ½ liters of IMFL at a given point of time. In this case, there are two individuals. Therefore, their possession can be 9 liters. Even according to the respondent, the accused were found in possession of 8.5 litres only. Therefore, the quantity of IMFL possessed by the accused falls well within the limit prescribed in the aforesaid Statutory rules. Only if law has been violated, the vehicle used for transporting the contraband can be seized. I find that there is no violation of the provisions of Tamilnadu Prohibition Act. Therefore, the seizure of the petition mentioned vehicle is unwarranted. In this view of the matter, the confiscation order impugned in this writ petition is quashed. The respondents are directed to return the petition mentioned vehicle to the petitioner forthwith and without any delay. The Writ Petition is allowed. No costs. Consequently, connected Miscellaneous Petitions are closed.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)



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Note:

In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To:

1.The Additional Superintendent of Police,
Ramanathapuram District,
Ramanathapuram.

2.The Inspector of Police,
Thiruvadanai Police Station,
Ramanathapuram District.

+1 CC to M/s.SPL GP (SR-17141[F] dated 16/09/2020)

+1 CC to M/s.T.LENIN KUMAR, Advocate (SR-17172[F] dated
16/09/2020)

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SCR(CO)
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