

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 17.02.2021

CORAM :

THE HONOURABLE MR. JUSTICE P.VELMURUGAN
Crl.R.C.No.85 of 2021

S.Sunil Gavaskar

... Petitioner

.Vs.

The State of Tamilnadu rep. By
Inspector of Police,
Prohibition Enforcement Wing,
Kancheepuram,
Cr.No.239 of 2020.

... Respondent

PRAYER : Criminal Revision case filed under Sections 397 & 401 of Cr.P.C. to call for records of the learned Judicial Magistrate No.II, Kancheepuram in Crl.M.P.No.509 of 2020 in Cr.No.239 of 2020 dated 06.01.2021, set aside the same, consequently release the vehicle Hundai I 20 (Fiery Red Car).

For Petitioner : Mr.S.N.Subramani
For Respondent : Mr.K.Madhan (Crl.side)
Government Advocate

O R D E R

This Criminal Revision case has been filed challenging the order of the learned Judicial Magistrate No.II, Kancheepuram in Crl.M.P.No.509 of 2020 in Cr.No.239 of 2020 dated 06.01.2021, set aside the same and consequently release the vehicle Hundai I 20 (Fiery Red Car).

2. The respondent police registered a case against the petitioner in Cr.No.239 of 2020 under Section 4 (1)(a) of Tamil Nadu Prohibition Act. During investigation the unregistered vehicle viz., HUNDAI 1.20 (FIERY RED), was seized and the petitioner's father is the owner of the vehicle and he died on 03.12.2019. Therefore during investigation, the petitioner moved a petition under Section 451 Cr.P.C. , seeking interim custody of the vehicle in Crl.M.P.No.509/2020 and the same was dismissed vide order dated 06.01.2021 which is under challenge before this Court by way of this revision.

3.The learned counsel for the petitioner would submit that originally the subject vehicle belongs to the father of the petitioner and since his father died suddenly and also due to continuous lockdown during that period, the petitioner could not register his vehicle by producing all the documents. he would further submit that the vehicle was seized on

08.05.2020 by the respondent police and was kept idle by exposing the same to the rain and sun, which would lead to diminishing of value of the vehicle and hence prays for interim custody.

4. The learned Government Advocate (Crl.side) would submit that since the offence involved in this case is under Prohibition Act, the Vehicle is liable to be confiscated and hence the respondent police has confiscated the subject vehicle. He would submit that investigation is still pending.

5. Heard both sides. Perused the material available on record.

6. It is shocking to note that 26 bottles of TASMAC liquor were taken in the subject vehicle. It is not known whether these bottles were sold by TASMAC shop as there is no private shops in Tamil Nadu. Further, the vehicle came to be seized on 08.05.2020, but till date charge sheet has not been filed. Further, the vehicle is exposed to sun and rain, which would diminish the value of the vehicle.

5. In view of the same, this Court is inclined to grant interim custody of the vehicle to the petitioner. Accordingly, the respondent is directed to release the subject vehicle to the petitioner on condition that the petitioner shall furnish a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) before the respondent as security for releasing the aforesaid vehicle and also shall give undertaking to produce the subject vehicle before the learned concerned Magistrate as and when required. The respondent is directed to complete the investigation and file the charge sheet as expeditiously as possible and after completing the investigation can take steps to get back the vehicle in the manner known to law. However, this order will not in any way affect the confiscation proceedings to be initiated or already initiated by the authority.

Accordingly, this Criminal Revision case is disposed of. No Costs.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

1. The Inspector of Police,
Prohibition Enforcement Wing, Kancheepuram.

2. The Judicial Magistrate No.II, Kancheepuram.

3. The Public Prosecutor, High Court, Madras - 104.

+lcc to Mr.S.N.Subramani, Advocate SR.No. 9404

Crl.R.C.No.85 of 2021

A.SK(16.03.2021)

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