IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.02.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.98 of 2021

Sunil ... Petitioner

..vs..

State by Inspector of Police,
Koovathur Police Station,
Chengalpattu District,
Crime No.713 of 2020. ... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records of the learned District Munsif-cum-Judicial Magistrate, Thirukazhukundram, Chengalpattu District and set aside the order passed by the learned Magistrate made in Crl.M.P.No.1415 of 2020 dated 27.08.2020 and Order Return of the above said vehicle viz., ROYAL ENFIELD bearing Registration TN19 AY7365, Chassis No.ME3U3S5C2JF207482, Engine No.U3S5C2JF170999, concerned in Crime No.713 of 2020 on the file of the Inspector of Police, Koovathur Police Station, Chengalpattu District to the custody of the petitioner herein.

For Petitioners: Mr.A.Murugavel
For Respondent : Mr.K.Madhan
Government Advocate (Crl.Side)

O R D E R

Mr.K.Madhan, learned Government Advocate (Crl.Side) takes notice for the respondent. By consent of both parties, the matter is taken up today, for final disposal.

2.The respondent police registered a case in Crime No.713 of 2020 against the petitioner for the offence under Section 4 (1)(aa) of the TNP Act (Transporting) and seized the ROYAL ENFIELD bearing Registration TN19 AY7365, Chassis No.ME3U3S5C2JF207482, Engine No.U3S5C2JF170999 and also initiated confiscation proceedings. Subsequently, the petitioner filed a petition before the Court below under Section 451 r/w 457 of Cr.P.C. for return of the vehicle, which was dismissed by the Court below, against which the petitioner is before this Court with the present Criminal Revision Case.

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3.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is in no way connected with the alleged offence. Therefore, he seeks interim custody of the said vehicle and that he would abide by stringent conditions, if any, to be imposed on him.

4.The learned Government Advocate (Crl.Side) appearing for the respondent police would submit that since the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles, a case was registered against him under Prohibition Act Cases. He would further submit that confiscation proceedings is pending in this case and hence, the vehicle in question cannot be released at this stage.

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

6. Admittedly, the vehicle in question was involved in illegal transportation of liquor bottles and confiscation proceedings initiated by the respondent police is also pending. However, the petitioner has not shown as accused in this case and the said vehicle alone alleged to have involved in the said offence.

7. In view of the aforesaid reasons, this Court is constrained to set aside the order passed by the learned District Munsif-cum-Judicial Magistrate, Thirukazhukundram, Chengalpattu District made in Crl.M.P.No.1415 of 2020, dated 27.08.2020 and the Criminal Revision Case is allowed.

8.The learned District Munsif-cum-Judicial Magistrate, Thirukazhukundram, Chengalpattu District is directed to return the vehicle Registration TN19 AY7365, Chassis No.ME3U3S5C2JF207482, Engine No.U3S5C2JF170999 to the petitioner, on the following conditions:-

(i)The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(ii)The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;

(iii)The petitioner is directed to furnish security for a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand only), before the learned District Munsif-cum-Judicial Magistrate,Thirukazhukundram, on such furnishing security, the vehicle shall be returned.

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(iv)The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(v)The petitioner shall participate in the confiscation proceedings if any initiated and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

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To

1.The District Munsif-cum-Judicial Magistrate,
Thirukazhukundram, Chengalpattu District.

2.The Inspector of Police,
Koovathur Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.A.Murugavel, Advocate sr 9995.

Crl. R.C.No.98 of 2021

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