

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED : 02.03.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN
Criminal Revision Case No.120 of 2021

Palanisamy

... Petitioner

..vs..

The State

Rep.by the Inspector of Police,
Sankari Police Station,
Salem District,
Crime No.157 of 2020.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order of dismissal dated 10.02.2021 made in C.M.P.No.16 of 2021 in Crime No.157 of 2020 on the file of the Judicial Magistrate No.I, Sankari, Salem District by allowing the present Criminal Revision Case.

For Petitioner : Mr.R.Jayaprakash

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 at the admission stage itself.

2.The respondent police registered a case in Crime No.157 of 2020 against the petitioner for the offence under Section 4 (1)(a) and 4(1-A) of Tamil Nadu Prohibition Act and seized Mahindra XYLO car bearing Registration TN52 D 5527 and also initiated confiscation proceedings. Subsequently, the petitioner filed a petition before the Court below under Section 451 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.

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. He would further submit that the vehicle was seized on 08.04.2020 and it is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby putting the petitioner to hardship. 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 30 litres of illicit arrack, a case was registered against him under Tamil Nadu Prohibition Act. He would further submit that the investigation is pending and confiscation proceedings have been initiated 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 illicit arrack. Since investigation is pending, confiscation proceedings initiated by the respondent police is also pending. This Court is of the opinion that there is no purpose in keeping the vehicle idle in the police station, which will result in the value of the vehicle getting diminished.

7. In view of the aforesaid reasons, this Criminal Revision Case is allowed and the impugned order dated 10.02.2021 made in C.M.P.No.106 of 2021 by the learned Judicial Magistrate No.I, Sankari, Salem District is set aside and that the vehicle-in-question, bearing Registration TN52 D 5527 is ordered to be released to the petitioner, subject to 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 shall deposit a sum of Rs.5,00,000/- (Rupees Fifty Lakhs only), before the learned Judicial Magistrate No.I, Sankari, Salem District, on such deposit, the vehicle shall be returned.

(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 and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings.

Sd/-
Assistant Registrar(CS III)

//True Copy//

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To

1.The Judicial Magistrate No.I,
Sankari, Salem District.

2.The Inspector of Police,
Sankari Police Station,
Salem District.

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Jayaprakash , Advocate SR.No. 128836

Crl.R.C.No.120 of 2021

A.SK(22.03.2021)



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