

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.04.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.232 of 2021

Saravanan

... Petitioner

..vs..

State Represented by
Inspector of Police,
Arambakkam Police Station,
Thiruvallur District,
Crime No.449 of 2020.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order dated 10.12.2020 made in C.M.P.No.652 of 2020 on the file of the District Munsif cum Judicial Magistrate, Gummidipoondi (FAC) and to allow the above Criminal Revision Case.

For Petitioner : Mr.S.N.Arun Kumar
For Respondent : Mr.K.Mathan
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 10.12.2020 made in C.M.P.No.652 of 2020 on the file of the District Munsif cum Judicial Magistrate, Gummidipoondi.

2.The respondent police registered a case in Crime No.449 of 2020 against the petitioner for the offence under Section 4 (1)(a) of the Tamil Nadu Prohibition Act and seized the vehicle bearing Registration No.TN-10-AA-9686. Subsequently, the petitioner filed a petition under Section 451 and 457 of Cr.P.C. before the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi seeking return of the vehicle and the said petition was dismissed by order dated 10.12.2020 and hence, 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 no way connected with the alleged offence. He would further submit that the respondent police seized 7 bottles of Young Star Whisky 750 ml from the said vehicle. The petitioner is entitled to have possession of liquor upto five litres, but the respondent police

seized the liquor bottles which is below the quantum. 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. 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 alleged to have 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, Gummidipoondi made in C.M.P.No.652 of 2020, dated 10.12.2020 and the Criminal Revision Case is allowed.

8.The learned District Munsif-cum-Judicial Magistrate, Gummidipoondi is directed to return the vehicle Registration TN-10-AA-9686 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 deposit Rs.50,000/- (Rupees Fifty Thousand only), before the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi within a period of one week from the date of receipt of a copy of this order, 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 if any initiated and shall produce the vehicle before the confiscation authority. This order is subjected to the confiscation proceedings. However, it is made clear that this order shall not in any way affect the confiscation proceedings.

-s/d-
Assistant Registrar

True Copy

Sub-Assistant Registrar

ms

To

- 1.The District Munsif-cum-Judicial Magistrate,
Gummidipoondi.
 - 2.The Inspector of Police,
Arambakkam Police Station,
Thiruvallur District.
 - 3.The Public Prosecutor,
High Court, Madras.
- +1 CC to Mr.S.N. Arunkumar, Advocate sr 25510.

Cr1.R.C.No.232 of 2021

GP (CO)
SP(25/05/2021)

सत्यमेव जयते

WEB COPY