

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.04.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CrI.OP.No.7706 of 2021

R.Vijayakumar

... Petitioner

Versus

The State represented by,
Station House Officer,
Kiliyanur Police Station,
Villupuram District.
Crime No.1225 of 2020
CP.No.149 of 2020

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to call for the records relating to the order dated 15.12.2020 in CrI.R.P.No.18 of 2020 passed by the Principal Sessions Court, Villupuram and to set aside the same.

For Petitioner : Mrs.R.Jayasree

For Respondent : Mr.M.Mohamed Riyaz,
Additional Public Prosecutor

ORDER

The petitioner, who is the owner of the vehicle viz., Hero Splendour Plus, bearing registration number TN 16 E 1045, filed the above original petition.

2. The petitioner along with the vehicle was arrested in Crime No.1255 of 2020 for the offences punishable under Sections 4(1)(a) and 4(1)(A) of Tamil Nadu Prohibition Act. The vehicle was seized, handed over to the learned Judicial Magistrate, Vanur and numbered as CP.No.149 of 2020.

3. The petitioner had filed a return of property petition under Section 457 and 451 of the Code of Criminal Procedure before the learned Judicial Magistrate, Vanur in CrI.MP.No.152 of 2020. By an order dated 12.10.2020, the learned Magistrate had dismissed the petition, on the ground that a petition under

Section 4(1)(A) is triable by the Court of Sessions. Against which, the petitioner had filed a revision before the learned Principal District and Sessions Court at Villupuram. The revision was also dismissed on 15.12.2020 on the ground that, as per the provisions of Section 2(c) and 3 of Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act), Rules, 1979, the vehicle can be confiscated. Against which, the above petition is filed.

4. It is seen from the order of the learned Magistrate that there is no mention with regard to the confiscation proceedings before the Sessions Court and the learned Magistrate had dismissed the return of property petition for the reason that the petition under Section 4(1)(A) is triable by the Court of Sessions, which is not appropriate. Likewise, the Principal Sessions Judge had dismissed the revision petition for the reason that confiscation proceedings can be initiated as per the provisions of Section 2(c) and 3 of Tamil Nadu Disposal of Articles (Confiscated under the Tamil Nadu Prohibition Act), Rules, 1979.

5. This Court finds that the reasons given by the courts below are not proper. In view of the same, this Court is inclined to set aside the order dated 15.12.2020 in CrI.R.P.No.18 of 2020 passed by the Principal Sessions Court, Villupuram.

6. The learned Judicial Magistrate, Vanur is directed to return the vehicle, viz., Hero Splendour Plus, bearing registration number TN 16 E 1045, on the following conditions:-

(i) The petitioner shall produce the original RC Book 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 adjudication is over;

(iii) The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) to the satisfaction of the learned Judicial Magistrate, Vanur;

(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.

7. Accordingly, this petition is disposed of.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

To

- 1.The Principal Sessions Court,
Villupuram.
 - 2.The Judicial Magistrate,
Vanur.
 - 3.The Station House Officer,
Kiliyanur Police Station,
Villupuram District.
 - 4.The Public Prosecutor,
High Court of Madras,
Chennai.
- +1cc to Mr.R.Jayasree, Advocate Sr.25189

Cr1.OP.No.7706 of 2021

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srg 05/07/2021

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