

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 20.07.2021

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THE HONOURABLE MR. JUSTICE P.VELMURUGAN

W.P.No.14817 of 2021 and
W.M.P.No.15689 of 2021

Ponnusamy

... Petitioner

Vs.

1. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Perambalur - Post & District.

2. The Inspector of Police,
Prohibition Enforcement Wing,
Perambalur - Post & District.
(Crime No.573 of 2021)

... Respondents

Prayer: Petition filed under Article 226 of the Constitution of India, praying for the issuance of Writ of Mandamus, or any other writ or order or direction in the nature of writ calling for the records relating to the confiscation proceedings in Na.Ka.No.94 / Confiscation /ku. kA.k / Ma.Vi..A.Pi /Pe/21 (ந,க,எண் /,94/பறிமுதல் /கூ.கா.க./ம.வி.அ.பி.பெ/21) dated 30.06.2021 on the file of 1st respondent and quash the same and further direct 2nd respondent to release the vehicle bearing registration No.TN 46 V 4640, Chassis Number MBLJAR039H9H55531, Engine Number JA05EGH9H55877 Hero Super Splendor seized in Crime No.573 of 2021 dated 29.05.2021 on the file of the Inspector of Police, Prohibition Enforcement Wing, Perambalur - Post & District.

For Petitioner : Mr.D.Veerasekharan

For Respondents : Mr.A.Damodaran
Counsel for Govt. of Tamilnadu

O R D E R

The confiscation proceedings issued by the first respondent in Na.Ka.No.94/Confiscation/ku.kA.k/Ma.Vi..A.Pi/Pe/21 (ந,க,எண், 94/பறிமுதல் / கூ.கா.க./ம.வி.அ.பி.பெ/21) dated 30.06.2021, is under challenge in this writ petition.

2 It is submitted by the learned counsel for the petitioner that the petitioner is the owner of the vehicle, which was seized by the 2nd respondent police alleging that the same was used to transport ID arrack and 1st respondent issued a show cause notice on 02.06.2021. The petitioner filed a petition before the learned Judicial Magistrate No.1, Perambalur seeking return of vehicle, but, the said petition was returned with an endorsement "FIR is not received". The petitioner also sent a reply to the show cause notice on 25.06.2021 and the first respondent rejected the same and issued the impugned order of confiscation on 30.06.2021, which is under challenge now. The petitioner submitted that FIR has not been sent to the Court within the reasonable time and the 1st respondent without following any of the procedures contemplated under Section 14(4) of Tamilnadu Prohibition Act, issued the impugned order dated 30.06.2021, which is liable to be set aside.

3 This Court directed the learned Counsel for Government of Tamilnadu to ascertain the fact that whether FIR has been sent to the Court or not and today it is represented that due to pandemic, FIR could not be sent to the Court and when Government of Tamilnadu relaxed the lock down, FIR has been sent to the Court on 29.06.2021.

4 Considering the fact that at the time of filing of petition by the petitioner seeking return of vehicle, FIR has not been sent to the Court and the first respondent has not given sufficient opportunity to the petitioner, the impugned order of confiscation in Na.Ka.No.94 /Confiscation/ku.kA.k / Ma.Vi..A.Pi/Pe/21 (ந.க.எண்,94./பறிமுதல; /கட.கா.க./ம.வி.அ.பி/பெ/21) dated 30.06.2021, passed by the first respondent is hereby set aside. The first respondent is directed to send a fresh notice to the petitioner mentioning the grounds on which, they proposed to confiscate the vehicle and afford sufficient opportunity. Further, as far as, return of vehicle is concerned, the petitioner is at liberty to resubmit the petition seeking return of vehicle and on submission of the same, the learned Magistrate concerned is directed to decide the same on merits in accordance with law.

5 Accordingly, the writ petition stands disposed of. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar(CS-IX)

//True copy//

Sub Assistant Registrar

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To

1. The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Perambalur - Post & District.
2. The Inspector of Police,
Prohibition Enforcement Wing,
Perambalur - Post & District.
3. The Public Prosecutor, High Court of Madras.

+1cc to Mr.D.Veerasekharan, Advocate SR.No.34912

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GMY(22/07/2021)