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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.445 of 2021

Rathinal ... Petitioner / Petitioner

..VS..

1. State rep. By Inspector of Police
Sivagiri Police Station]
(In Cr.No.105 of 2021)
Erode District .. Respondent / Complainant

2.Muhammed Rafik ... Respondent / Accused

Criminal Revision Case filed under Section 397 & 401 of Criminal Procedure Code, to call for the records and set aside the order passed in CrI.M.P.No.1261 of 2021 by the learned District Munsif cum Judicial Magistrate, Kodumudi, Erode District dated 09.07.2021.

For Petitioner : Mr.M.Saravanakumar
For Respondent-1: Mr.S.Sugendran
Government Advocate (CrI.Side)

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 09.07.2021 in CrI.M.P.No.1261 of 2021 passed by the learned District Munsif cum Judicial Magistrate, Kodumudi, Erode District.

2.The respondent police registered the case in Crime No.105 of 2021 on 20.06.2021 against the 2nd respondent for the offence under Section 4(1)(a) of TNP Act and also seized the vehicle "Swift Desire Car" bearing registration No.TN56 M 4695. During the pendency of the investigation, the petitioner filed an application before the District Munsif cum Judicial Magistrate, Kodumudi, Erode District in CrI.M.P.No.1261 of 2021 under Sections 451 and 457 of Cr.P.C seeking relief of interim custody of the vehicle and the learned Magistrate dismissed the same by order dated 09.07.2021. Challenging the said order, the petitioner has filed the present revision before this Court.



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that the petitioner is the owner of the vehicle. He would submit that the vehicle is kept in open space and in the exposure of sun and rain and thereby, it would get severely damaged. The petitioner had filed a petition before the learned District Munsif cum Judicial Magistrate, Kodumudi, Erode District seeking for return of vehicle whereas, the learned Magistrate, without considering the fact, dismissed the petition. Therefore, the petitioner has filed the present revision before this Court. He would further submit that the petitioner is prepared to obey any condition imposed by this Court and he would pray that the vehicle may be returned to the petitioner.

4. The learned Government Advocate (Crl. Side) would submit that the said vehicle is involved in illegal transportation of 28 bottles of Brandy while the Government of Tamil Nadu had shut down the TASMALC shops during lock down. He would submit that the confiscation proceedings have already been initiated and the show cause notice has also been issued to the petitioner. Since, the confiscation proceedings have already been initiated, if the vehicle is released at this stage, there is every possibility of tampering the engine and chassis number of the vehicle and thereby, the investigation would be defeated. Hence, he objects for release of the vehicle.

5. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials on record.

6. Admittedly, the respondent/police registered the case in Crime No.105 of 2021 against the 2nd respondent for the offence punishable under Section 4(1)(a) of TNP Act and seized the vehicle "Swift Desire car" bearing registration No. No.TN56 M 4695. Now the investigation is pending and the charge sheet has not been filed. Meanwhile, the respondent police have initiated confiscation proceedings and issued show cause notice to the petitioner.

7. Considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to heat, rain and dust, this Court directs the District Munsif cum Judicial Magistrate, Kodumudi, Erode District to return the vehicle "Swift Desire car" bearing registration No. No.TN56 M 4695, 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;



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(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 a sum of Rs.50,000/- (Rupees Fifty Thousand only), as non-refundable deposit through RTGS/NEFT in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof, 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 or the Court below 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.

7. Accordingly, this Criminal Revision case is allowed by setting aside the order passed in Crl.M.P.No.1261 of 2021 dated 09.07.2021 by the learned District Munsif cum Judicial Magistrate, Kodumudi, Erode District.

Sd/-

Assistant Registrar (CCC)

//True Copy//

Sub Assistant Registrar

ksa-2

To

1. The District Munsif cum Judicial Magistrate,
Kodumudi, Erode District

2.The Inspector of Police
Sivagiri Police Station
Erode District



3.The Public Prosecutor,
High Court, Madras.

4.The Joint Secretary,
the Joint Secretary and treasurer,
Chief Minister's Public Relief fund,
Finance (CMPRF) Department,
Government of Tamilnadu,
Secretariat, Chennai 600 009.

Copy To

The Section Officer,
Criminal Section,
High Court, Madras.

+lcc to Mr.M.Saravan Kumar, Advocate, S.R.No. 37544

Cr1.R.C.No.445 of 2021

RLD(CO)
GN(13/08/2021)