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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :06.08.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

W.P.No.16200 of 2021

M.Muniyappan

...Petitioner

Versus

1. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Erode,
Erode District.

2. The Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.
Crime No.200 /2021

...Respondents

Writ Petition filed under Article 226 of the Constitution of India praying to direct the respondents to release the petitioner's vehicle Hero Splendor Plus, bearing Registration TN-45-BT-6581 seized by the second respondent Police, based on the representation of the petitioner dated 12.07.2021.

For Petitioner : Mr.K.Karthikeyan

For Respondents: Mr.Damodaran,
Government Advocate (Crl.side)

ORDER

The petitioner, who is the owner of the Hero Splendor Plus bike bearing Registration TN 45-BT-6581, has filed the writ petition seeking direction, directing the respondents to release his Hero Splendor Plus Bike.

2. The contention of the petitioner is that the petitioner is the owner of the said vehicle and he had purchased the



vehicle by availing financial assistance. He has been using the same. While so, on 01.07.2021, one Muthusamy, who is a relative of the petitioner's father, had taken the bike for his use and thereafter, used the same for transporting liquor bottles. The vehicle was intercepted during the road check by the police officials and a case in Crime No.200 of 2021 registered under Section 4(1)(a) of the Tamil Nadu Prohibition Act as against the said Muthusamy and the vehicle seized and kept in the open space of the police station exposing the vehicle to vagaries of weather. Thereby, the value of the vehicle is getting diminished. The petitioner is not an accused in this case. Further, the vehicle not produced before the Court below.

3. The learned Government Advocate (crl. side) appearing for the respondents strongly opposed the same stating that the petitioner's relative one Muthusamy had taken the bike with the knowledge of the petitioner and he was found transporting the liquor bottles during the road checking and the vehicle along with the liquor bottles were seized. The said Muthusamy was arrested and a case in Crime No.200 of 2021 under Section 4(1)(a) of the Tamil Nadu Prohibition Act, has been registered.

4. I have considered the submissions made on either side and perused the materials available on records carefully.

5. The vehicle is involved in a criminal case and confiscation proceedings contemplated and requisition addressed by the second respondent to the first respondent on 12.07.2021, who is the appropriate authority to confiscate the vehicle, now confiscation proceedings initiated by the 2nd respondent. It is also seen that without approaching the lower Court, namely, Judicial Magistrate, Kodumidi by filing petition under Sections 451 and 457 of Cr.P.C, the petitioner had approached this Court directly. There is a specific provision seeking return of property, the petitioner ought to have filed a petition before the Judicial Magistrate, Kodumudi, the Jurisdiction Court and only thereafter, he can approach this Court, without approaching the Court below, directly approaching this Court, by way of writ petition is not proper. Now, confiscation proceedings pertaining to the vehicle has been initiated. The petitioner has to approach the first respondent and participate in the confiscation proceedings and secure his vehicle.

6. Considering the fact that the vehicle has been seized on 01.07.2021 and the vehicle is kept in a open area exposing to vagaries of weather, the confiscation authority, namely, the first respondent is directed to complete and conclude the proceedings, within a period of one month from the date of receipt of a copy of this order.



7. With the above directions, this writ petition is disposed of. No costs.

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Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

mrp

To

1. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Erode, Erode District.
2. The Inspector of Police,
Kodumudi Police Station,
Kodumudi,
Erode District.
3. The Public Prosecutor,
High Court, Madras

+lcc to Mr.K.Karthikeyan, Advocate, S.R.No.39498/21

W.P.No.16200 of 2021

SMI (CO)
RGA(01/09/2021)