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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.NO.474 OF 2021

M.Bose

... Petitioner

.Vs.

1. Moovendhan
2. Marudhupandiyan
3. State rep. by
The Inspector of Police
PEW-Krishnagiri,
Krishnagiri District
(FIR No.379/2021)

... Respondents

PRAYER:-

Criminal Revision Case filed under Section 397 & 401 of Criminal Procedure Code, to call for the records pertaining to the order passed in Cr.M.P.No.3222 of 2021, dated 13.07.2021 by the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District and set aside the same by allowing this criminal revision petition.

For Petitioner : Mr.R,Murugappan

For Respondent : Mr.S.Sugendran
Govt. Advocate (Crl.Side)
For R3

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the dismissal of petition filed by the petitioner seeking return of vehicle vide order dated 13.07.2021 made in Cr.M.P.No.3222 of 2021, by the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District.



2. The third respondent police registered a case in Crime No.379 of 2021 against the respondents 1 & 2 for the offence under Section 4(1)(a) of Tamilnadu Prohibition Act and also seized the vehicle "TATA ACE" bearing registration No.TN 31 AE 1706. During pendency of investigation, the petitioner, being a owner of the vehicle, filed an application before the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District. in Cr.M.P.No.3222 of 2021 under Sections 451 and 457 of Cr.P.C seeking return of vehicle and the learned Magistrate dismissed the same by order dated 13.07.2021. Challenging the said order, the petitioner has filed the present revision before this Court.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and the vehicle is kept in open space and in exposure of sun and rain and thereby, it would get severely damaged. The petitioner is prepared to obey any condition imposed by this Court and he would pray that the vehicle may be returned to him.

4. The learned Government Advocate (Crl. Side) would submit that the said vehicle is involved in illegal transportation of liquor bottles, 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 third respondent police and perused the materials on record.

6. 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 sun, rain and dust, this Court directs the Judicial Magistrate No.II, Krishnagiri, Krishnagiri District. to return the vehicle "TATA ACE" bearing registration No.TN 31 AE 1706, 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 to fight against COVID-19 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 police 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.

8. Accordingly, this Criminal Revision case is allowed by setting aside the order passed in Cr.M.P.No.3222 of 2021, dated 13.07.2021 by the learned Judicial Magistrate No.II, Krishnagiri, Krishnagiri District.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate No.II,
Krishnagiri,
Krishnagiri District.
2. The Inspector of Police,
PEW-Krishnagiri,
Krishnagiri District.
3. The Public Prosecutor,
High Court, Madras.

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JP-II (CO)
PBS/09/09/2021