



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Crl.R.C.No.479 of 2021

A.S.Venkatesan

...Petitioner/Petitioner

vs.

State, rep. By
The Sub Inspector of Police,
PEW Gummudipoondi Police Station,
Thiruvallur District.
(Crime No.274 of 2021)

...Respondent/Respondent

Prayer: This Criminal Revision Case filed under Section 397 read with 401 of Criminal Procedure Code, to set aside the order dated 02.07.2021 made in Crl.M.P.No.633 of 2021 on the file of the District Munsif Cum Judicial Magistrate, Gummudipoondi, Thiruvallur District dismissing the petition to return the Vehicle of Two wheeler Hero Passion Pro bearing Registration No. TN-18-L-6039 to the petitioner herein.

For Petitioner : Mr.V.Manimaran
for Mr.R.Sasikumar

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

O R D E R

This Criminal Revision Case has been filed to set aside the order dated 02.07.2021 made in Crl.M.P.No.633 of 2021 on the file of the learned District Munsif Cum Judicial Magistrate, Gummudipoondi, Thiruvallur District, dismissing the petition to return the Vehicle of Two wheeler Hero Passion Pro bearing Registration No. TN-18-L-6039 to the petitioner herein.

2. It is the case of the petitioner that the respondent police registered a case in Crime No.274 of 2021 against the petitioner for the offence under Section 4 (1) (a) of Tamil Nadu Prohibition Act, 1937 and seized the vehicle viz., Hero Passion Pro bearing Reg.No. TN-18-L-6039, having Engine



No.HA10ENCCD02823 and Chasis No.MBLIIA10AWCCD06543. The petitioner filed a petition under Sections 451 and 457 of Cr.P.C in Crl.M.P.No.633 of 2021 seeking to release the Two Wheeler bearing Reg.No.TN-18-L-6039 and interim custody of the vehicle. The learned District Munsif Cum Judicial Magistrate, Gummidipoondi by an order, dated 02.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3. The case of the prosecution is that on 20.05.2021 when the respondent/police checking the vehicles at Pathirvedu Police circle area, Poonthavakkam to Chedhil Pakkam via forest road, they intercepted the Two Wheeler bearing Reg.No.TN-18-L-6039, and interrogated the petitioner. On suspicion, they searched the vehicle and found 50 brandy bottles (Andhra State Bottles) and hence, the case in Crime No.274 of 2021 was registered against the petitioner for offence under Section 4 (1) (a) of Tamil Nadu Prohibition, Act, 1937 and seized the above said vehicle.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is in no way connected with the alleged offence. Therefore, he seeks interim custody of the said vehicle and that the petitioner would abide by stringent conditions, if any, to be imposed on him.

5. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that since the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles, show cause notice was issued to the petitioner and confiscation proceedings initiated and hence, the vehicle in question cannot be released at this stage.

6. This Court considered the rival submissions and perused the materials available on record.

7. On a perusal of records, it is seen that the respondent police registered the case in Crime No.274 of 2021 against the petitioner for the offence under Section 4 (1) (a) of Tamil Nadu Prohibition, Act, 1937 and also seized the vehicle. Pending investigation, the petitioner filed a petition for interim custody of the vehicle, however, the same was dismissed by the Court below.

8. 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 and also considering the fact that the Government itself is doing business of selling alcohol through TASMAL Shops, it is very easy for the public to access the subject matter liquor, this Court directs the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi, to return the vehicle



viz., Hero Passion Pro bearing Reg.No. TN-18-L-6039, 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;

(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.25,000/- (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.

9.With the above directions, the Criminal Revision Case is ordered by setting aside the order passed in Crl.M.P.No.633 of 2021, dated 02.07.2021 by the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif Cum Judicial Magistrate,
Gummudipoondi,
Thiruvallur District.

2. The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai - 9.

3. The Sub Inspector of Police,
PEW Gummudipoondi Police Station,
Thiruvallur District.

4. The Public Prosecutor,
High Court, Madras.

+1 CC to Mr.r.Sasikumar, Advocate, Sr.No. 40840.

Cr1.R.C.No.479 of 2021

AK-II(CO)
LS(07/09/2021)