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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.477 of 2021

Arun

... Petitioner

Versus

State Rep. by
The Sub Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District,
Crime No.373 of 2021.

... Respondent

Criminal Revision Case filed under Section 397 and 401 Criminal Procedure Code, to set aside the order dated 27.07.2021 made in Crl.M.P.No.4525 of 2021 on the file of the learned Judicial Magistrate No.II, Chengalpattu, Chengalpattu District dismissing the petition to return the vehicle of two wheeler TVS Jupiter bearing registration No.TN-19-M-5175 to the petitioner.

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 against the order dated 27.07.2021 passed in Crl.M.P.No.4525 of 2021 by the learned Judicial Magistrate No.II, Chengalpattu, Chengalpattu District.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.373 of 2021 against the petitioner for the offence under Sections 4(1) (a) and 4(1-A) of Tamil Nadu Prohibition Act and seized the two wheeler TVS Jupiter bearing Registration No.TN-19-M-5175. The petitioner filed a petition under Section 451 r/w 457 Cr.P.C in Crl.M.P.No.4525 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate No.II, Chengalpattu by an order, dated 27.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.



3.The case of the prosecution is that on 30.05.2021 when the respondent/police checking the vehicles at Thimmavaram Vasantham Nagar, they intercepted TVS Jupiter Motor Cycle bearing Registration No.TN-19-M-5175 and interrogated the petitioner. On suspicion, they searched the vehicle and found 80 brandy bottled and arrested one Senthil for the alleged transportation of liquor and seized the 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, the petitioner seeks interim custody of the said vehicle and that he 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 the petitioner was alleged to have used the said vehicle for illegal transportation of I.D.Arrack. He would further submit that in the present case show cause notice was issued 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 the records, it is seen that the respondent police registered the case in Crime No.373 of 2021 against the petitioner for the offence under Sections 4(1)(a) and 4(1-A) of Tamil Nadu Prohibition Act and also seized the vehicle. Pending investigation, the petitioner filed the 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 TASMAC Shops, it is very easy for the public to access the subject matter liquor, this Court directs the learned Judicial Magistrate No.II, Chengalpattu, Chengalpattu District to return TVS Jupiter Motor Cycle bearing Registration No.TN-19-M-5175, 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 Twenty Five 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 allowed by setting aside the order dated 27.07.2021 passed in CrI.M.P.No.4525 of 2021 by the learned Judicial Magistrate No.II, Chengalpattu, Chengalpattu District.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate No.II,
Chengalpattu, Chengalpattu District.

2.The Sub Inspector of Police,
Chengalpattu Taluk Police Station,
Chengalpattu District.



3.The Public Prosecutor,
High Court, Madras.

4.The Joint Secretary and Treasurer,
Chief Minister's Public Relief Fund,
Secretariat, Chennai-9.

+1cc to Mr.R.Sasikumar, Advocate Sr No.40193

Crl.R.C.No.477 of 2021

SS (CO)

PR (01/09/2021)