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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.487 of 2021

Kalidass

... Petitioner

Versus

State Represented by
Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore City,
Crime No.446 of 2021.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Criminal Procedure Code, to call for the records and set aside the order passed in CrI.M.P.No.14258 of 2021 by the learned Judicial Magistrate No.2, Coimbatore dated 13.07.2021 and to allow this Criminal Revision Case.

For Petitioner : Mr.C.Divya
for Mr.M.Saravanakumar

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

O R D E R

This Criminal Revision Case has been filed against the order dated 13.07.2021 passed in CrI.M.P.No.14258 of 2021 by the learned Judicial Magistrate No.2, Coimbatore.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.446 of 2021 against the petitioner for the offence under Section 4(1) (a) of Tamil Nadu Prohibition Act and seized the vehicle viz., Auto Rickshaw bearing Registration No.TN 37 AW 1603. The petitioner filed a petition under Section 451 r/w 457 Cr.P.C in C.M.P.No.14258 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate No.II, Coimbatore by an order, dated 13.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 16.06.2021 at about 9.00 p.m the respondent police intercepted the Auto Rickshaw



bearing Registration No.TN 37 AW 1603 and found illegal possession of 50 bottles of liquor and the case in Crime No.446 of 2021 was registered against the petitioner for offence under Section 4(1) (a) of Tamil Nadu Prohibition, Act, 1937 and also seized the 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 possession 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.446 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 Judicial Magistrate No.II, Coimbatore, to return the vehicle Auto Rickshaw bearing Registration No. TN 37 AW 1603 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.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.

9.With the above directions, the Criminal Revision Case is allowed by setting aside the order passed in Crl.M.P.No.14258 of 2021, dated 13.07.2021 by the learned Judicial Magistrate No.II, Coimbatore.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate No.2,
Coimbatore.
- 2.The Inspector of Police,
E-2 Peelamedu Police Station,
Coimbatore City.
- 3.The Public Prosecutor,
High Court, Madras.



Copy to

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

+lcc to Mr.M.Saravana Kumar, Advocate Sr No.41549

Cr1.R.C.No.487 of 2021

PMK (CO)
PR (01/09/2021)