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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.491 of 2021

Stella Manickavally

... Petitioner

Versus

State rep by
The Inspector of Police,
Bangalapudur Police Station,
Erode District,
Crime No.215 of 2021.

... Respondent

Prayer:-

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records and set aside the order dated 02.08.2021 passed by the learned Judicial Magistrate No.I, Gopichettypalayam in C.M.P.No.2874 of 2021 and to return the SKODA KODIAQ CAR bearing registration No.TN-72-BV-5544 to the custody of the petitioner.

For Petitioner : Mr.P.Premkumar

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 02.08.2021 passed in C.M.P.No.2874 of 2021 by the learned Judicial Magistrate No.I, Gobichettypalayam.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.215 of 2021 against the petitioner for the offence under Section 4(1) (a) of Tamil Nadu Prohibition Act and seized the vehicle viz., SKODA KODIAQ CAR bearing registration No.TN-72-BV-5544. The petitioner filed a petition under Section 451 and 457 Cr.P.C in C.M.P.No.2874 of 2021 seeking interim custody of the vehicle. The learned



Judicial Magistrate No.I, Gobichettipalayam, by an order dated 02.08.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 04.06.2021, when the respondent/police checking the vehicles at Bangalaputhur Circle, K.N.Palayam check post they intercepted SKODA KODIAQ CAR bearing registration No.TN-72-BV-5544. On suspicion, they searched the vehicle and found 166 tetra packets of IMFL from Karnataka State. Hence, the respondent police registered the case in Crime No.215 of 2021 against the petitioner and seized the vehicle.

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

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 Karnataka State liquor. He would further submit that in the present case show cause notice 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.215 of 2021 against the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act 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 TASMAC Shops, it is very easy for the public to access the subject matter liquor, this Court directs the learned Judicial Magistrate No.I, Gobichettipalayam, to return the vehicle bearing Registration No.TN-72-BV-5544 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 and on such payment and production of proof, the vehicle shall be returned;

(iv)The petitioner shall also give an undertaking that she 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 02.08.2021 passed in C.M.P.No.2874 of 2021 by the learned Judicial Magistrate No.1, Gobichettipalayam.

Sd/-

Assistant Registrar (CS-VII)

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Sub Assistant Registrar

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To

1. The Judicial Magistrate No.I,
Gobichettipalayam.



2. The Inspector of Police,
Bangalapudur Police Station,
Erode District.

3. The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Secretariat, Chennai - 600 009.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.P.Premkumar , Advocate, S.R.No.41223

Cr1.R.C.No.491 of 2021

SSV(CO)
SU(09/09/2021)