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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.489 of 2021

K.Vasudevan

... Petitioner

Versus

The State rep by its
Inspector of Police,
PEW, Gummidipoondi Police Station,
Crime No.329 of 2021.

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 08.07.2021 passed by the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi in Crime No.329 of 2021 and to set aside the same and consequently to direct the respondent to return the vehicle bearing No.TN-02-BD-1652 (Mahindra and Mahindra Ltd.,) Engine Number SMF6819531, Chasis Number MA1NA2SMXF6K46979 in Crime No.329 of 2021 to the petitioner.

For Petitioner : Mr.R.Thirumoorthy

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 08.07.2021 passed in C.M.P.No.663 of 2021 by the learned District Munsif-cum-Judicial Magistrate, Gummidipoondi.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.329 of 2021 against the petitioner for the offence under Section 4(1) (a) of Tamil Nadu Prohibition Act and seized the car bearing Registration No.TN-02-BD-1652 (Mahindra and Mahindra Ltd.,). The petitioner filed a petition under Section 451 and 457 Cr.P.C in C.M.P.No.663 of 2021 seeking interim custody of the vehicle. The learned District Munsif-cum-Judicial Magistrate, Gummidipoondi by an order, dated 08.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.



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3.The case of the prosecution is that on 04.06.2021, when the respondent/police was in surveillance to prevent the sale of illicit liquor at Elavoor Check Post they intercepted car bearing Registration No.TN-02-BD-1652 and interrogated the petitioner and found 37 bottles of illicit arrack. Hence, the respondent police registered the case in Crime No.329 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 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 liquor bottles. 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.

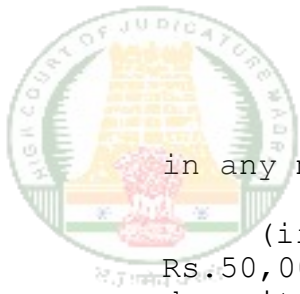
6.This Court considered the rival submissions and perused the materials available on record.

7.On a perusal of the records, it is seen that the respondent police registered the case in Crime No.329 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 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, Gummudipoondi to return the vehicle bearing Registration No.TN-02-BD-1652 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 dated 08.07.2021 passed in C.M.P.No.663 of 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,
Gummidipoondi.
2. The Inspector of Police,
PEW, Gummidipoondi Police Station,
Gummidipoondi.
3. The Public Prosecutor,
High Court, Madras.



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

Cr1.R.C.No.489 of 2021

BR (CO)
PR (16/09/2021)