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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.504 OF 2021

J.Vinoth

... Revision Petitioner/
Petitioner

.Vs.

The State,
Rep. by The Sub-Inspector of Police,
PEW Gummidipoondi Police Station,
Crime No.333 of 2021

... Respondent/Respondent

PRAYER:-

Criminal Revision Case filed under Section 397 read with 401 of Criminal Procedure Code, seeking to set aside the order dated 07.07.2021 passed by the learned District Munsif Cum Judicial Magistrate, Gummidipoondi in C.M.P.No.660 of 2021 by allowing the above Revision Petition.

For Petitioner : Mr.D.Kumaralingam
For Mr.R.Velu

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

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 07.07.2021 passed by the learned District Munsif Cum Judicial Magistrate, Gummidipoondi in C.M.P.No.660 of 2021



2. It is the case of the petitioner that the respondent police registered a case in Crime No.333 of 2021 against the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle viz., HERO SPLINDOR PRO DRUM Motor Cycle bearing Registration No.TN18 AZ 0492. Therefore, the petitioner who is the owner of the said vehicle filed a petition under Section 451 and 457 Cr.P.C in C.M.P.No.660 of 2021 before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, for return of vehicle and the learned Magistrate by order dated 07.07.2021 dismissed the same. Against which, the present Criminal Revision Case is filed before this Court.

3. The case of the prosecution is that on 05.06.2021 when the respondent/police were conducting vehicle check up at Kumpuli near Dr.Cherian Hospital, they intercepted a two wheeler bearing Registration No.TN18 AZ 0492 and on search, they found 48 nos. of 180 Ml Andhra State Whisky bottles without any valid permit from the Government. Hence the case in Crime No.333 of 2021 was registered against the petitioner and the vehicle was seized.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he had purchased the said vehicle from one K.R.Latha and before he transfers the vehicle in his name, the respondent police have foisted a false case against the petitioner. He would submit that the vehicle is in exposure of sun light in a open space and thereby, the condition of the vehicle is getting deteriorated day by day. He would further submit that the petitioner filed a petition in C.M.P.No.660 of 2021 before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, for return of vehicle and the learned Magistrate without considering the fact, simply dismissed the petition by order dated 07.07.2021. Therefore, the present revision has been filed before this Court seeking interim custody of the said vehicle and that the petitioner is prepared to 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 said vehicle has been used for illegal transportation of 48 nos. of 180 Ml Andhra State Whisky bottles. Further, the confiscation proceedings has been initiated and the show cause notice has been issued. 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.333 of 2021 against the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle bearing Registration No.TN18 AZ 0492. Therefore, pending investigation, the petitioner filed a petition before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, for return of vehicle and the same has been dismissed.

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, this Court directs the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, to return the vehicle namely HERO SPLINDOR PRO DRUM Motor Cycle bearing Registration No.TN18 AZ 0492, 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 07.07.2021 passed in C.M.P.No.660 of 2021 on the file of the learned District Munsif Cum Judicial Magistrate, Gummidipoondi.

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Sd/-
Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif Cum Judicial Magistrate,
Gummidipoondi.
2. The Chief Judicial Magistrate,
Thiruvallur District. (For Information)
3. The Sub-Inspector of Police,
PEW Gummidipoondi Police Station.
4. The Public Prosecutor,
High Court, Madras.

Copy To:

1. The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance(CMPRF) Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
2. The Deputy Superintendent of Police,
Thiruvallur District.
3. The Manager,
Indian Overseas Bank,
Secretariat Branch,
Chennai - 009.

+1cc to Mr.R.Velu, Petitioner Advocate, S.R.No.42549

CRL.R.C.NO.504 OF 2021

NR(CO)
PBS/17/09/2021