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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.10.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.528 of 2021

Sriramalu

... Petitioner / Petitioner

Vs.

State Represented by
Inspector of Police
Padirivedu Police Station
Thiruvallur District
(Crime No.310 of 2021)

... Respondent/Respondent

Criminal Revision Case filed under Section 397 read with 401 of Criminal Procedure Code, seeking to set aside the order dated 06.07.2021 made in C.M.P.No.643 of 2021 on the file of district Munsif cum Judicial Magistrate at Gummidipoondi and allow the above Criminal Revision Petition.

For Petitioner : Mr.R.Parthiban

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 06.07.2021 made in C.M.P.No.643 of 2021 on the file of District Munsif cum Judicial Magistrate, Gummidipoondi.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.310 of 2021 against the one Sathish Kumar for the offence under Tamil Nadu Prohibition Act and also seized the vehicle viz., Swift Car bearing Registration No.TN 14 Q 4123. 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.643 of 2021 before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, for return of vehicle and the learned Magistrate by order dated 06.07.2021 dismissed the same. Against which, the present Criminal Revision Case is filed before this Court.



3.The case of the prosecution is that on 09.06.2021 when the respondent/police were conducting vehicle check up at Pommachikulam check Post, they intercepted a Swift car bearing Registration No.TN 14 Q 4123 and on search, they found the accused illegally transporting 216 nos. of Andhra State liquor bottles without any valid permit from the Government. Hence the case in Crime No.310 of 2021 was registered against the accused and the vehicle was seized.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and the vehicle has been misused by the accused without his knowledge. He would further submit that the vehicle is in exposure of sun and rain in a open space and thereby, the condition of the vehicle is getting deteriorated day by day. Hence, he filed a petition in C.M.P.No.643 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 06.07.2021. 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 (Cr1.Side) appearing for the respondent would submit that the said vehicle has been used for illegal transportation of 216 nos. of Andhra State liquor bottles and if the vehicle is released at this stage, there is every possibility of tampering the engine and chassis number of the vehicle and thereby, the investigation would be defeated. Hence, he objects for release of the vehicle.

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

7.Considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to natural calamities, this Court directs the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, to return the vehicle namely "Swift Car" bearing Registration No.TN 14 Q 4123 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.1,00,000/- (Rupees One Lakh 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.

8.With the above directions, the Criminal Revision Case is allowed by setting aside the order dated 06.07.2021 passed in C.M.P.No.643 of 2021 on the file of the learned District Munsif Cum Judicial Magistrate, Gummidipoondi.

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 Inspector of Police
Padirivedu Police Station
Thiruvallur District
- 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.

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+1cc to Mr.R.Parthiban, Advocate, S.R.No. 51061

Cr1.R.C.No.528 of 2021

SS (CO)
GN (21/10/2021)