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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.538 of 2021

Bharathi

... Petitioner/Accused/Owner of the Property  
Versus

1.The State Rep. by

The Inspector of Police,  
Prohibition Enforcement Wing,  
Nannilam, Tiruvarur District.  
Crime No.495 of 2021.

2.The Additional Superintendent of Police,  
Prohibition Enforcement Wing,  
Tiruvarur.

... Respondents/Respondents/Complainants

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 29.07.2021 made in CrI.M.P.No.650 of 2021 on the file of the learned District Munsif-cum-Judicial Magistrate, Nannilam and to return the Bolero Maxi Truck, bearing Registration No.TN-82-W-1897 seized in connection with Crime No.495 of 2021 on 08.06.2021 on the file of the respondent police to the petitioner.

For Petitioner : Mr.T.Muruganantham

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

O R D E R

This Criminal Revision Case has been filed against the order dated 29.07.2021 made in CrI.M.P.No.650 of 2021 by the learned District Munsif-cum-Judicial Magistrate, Nannilam, Tiruvarur District.



2.It is the case of the petitioner that the respondent police registered a case in Crime No.495 of 2021 against the petitioner for the offence under Sections 4(1) (aaa) and 4(1-A) of Tamil Nadu Prohibition Act and seized the vehicle Mahendra Bolero Maxi Truck bearing registration No.TN-82-W-1897. The petitioner filed a petition under Sections 451 r/w 457 of Cr.P.C in CrI.M.P.No.650 of 2021 seeking interim custody of the vehicle. The learned District Munsif-cum-Judicial Magistrate, Nannilam, by an order, dated 29.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 08.06.2021, the second respondent police intercepted four wheeler viz., Mahendra Bolero Maxi Truck bearing registration No.TN-82-W-1897 and interrogated the petitioner. On suspicion, the respondent police searched the vehicle and found 110 litres of Pondichery illicit liquor and arrested the petitioner for the alleged transportation of liquor 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. On the date of occurrence i.e. on 08.06.2021, while the petitioner was returning back from the garage, the respondent police intercepted his vehicle and asked for the papers of the vehicle, during which, a wordy quarrel arose between them and that the respondent police had foisted a false case against the petitioner. 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 (CrI.Side) appearing for the respondent would submit that the petitioner was alleged to have used the said vehicle for illegal transportation of Pondichery illicit liquor. He would further submit that in the present case 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.



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7. On a perusal of the records, it is seen that the respondent police registered the case in Crime No.495 of 2021 against the petitioner for the offence under Sections 4(1)(aaa) r/w 4(1-A) of Tamil Nadu Prohibition Act and also seized the vehicle. Pending investigation, the petitioner filed the 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, Nanillam, to return the four wheeler viz., Mahendra Bolero Maxi Truck bearing Registration No.TN-82-W-1897, 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.

9.With the above directions, the Criminal Revision Case is allowed by setting aside the order dated 29.07.2021 passed in CrI.M.P.No.650 of 2021 by the learned District Munsif-cum-Judicial Magistrate, Nanillam, Tiruvarur District.

Sd/-

Assistant Registrar (CS-VIII)

// True Copy //

Sub Assistant Registrar

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To

1.The District Munsif-cum-Judicial Magistrate,  
Nanillam,  
Tiruvarur District.

2.The Inspector of Police,  
Prohibition Enforcement Wing,  
Nannilam, Tiruvarur District.

3.The Additional Superintendent of Police,  
Prohibition Enforcement Wing,  
Tiruvarur.

4.The Public Prosecutor,  
High Court, Madras.

+1CC to M/s.T.Muruganantham, Advocate, SR.No.46202

CrI.R.C.No.538 of 2021

SR II(CO)

B.VC (27/09/2021)