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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.551 of 2021

Elango

... Petitioner/Owner of the Vehicle

Versus

State Represented by
The Inspector of Police,
Vazhapadi Police Station,
Salem District,
Crime No.191 of 2021.

... Respondent/Complainant

Criminal Revision Case filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order dated 07.07.2021 made in C.M.P.No.423 of 2021 by the learned District Munsif-cum-Judicial Magistrate (FAC) Vazhapadi and to allow the above Criminal Revision Case.

For Petitioner : Mr.W.Camyles Gandhi

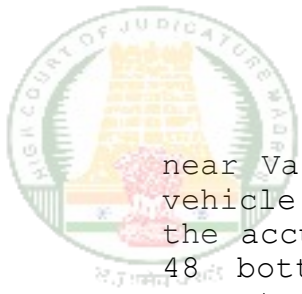
For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

This Criminal Revision Case has been filed against the order dated 07.07.2021 made in C.M.P.No.423 of 2021 by the learned District Munsif-cum-Judicial Magistrate (FAC), Vazhapadi.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.191 of 2021 against the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and seized the TATA SUMO bearing registration No.TN-31-Q-4555. The petitioner filed a petition under Section 451 and 457 of Cr.P.C in Cr1.M.P.No.423 of 2021 seeking interim custody of the vehicle. The learned District Munsif-cum-Judicial Magistrate (FAC), Vazhapadi, by an order, dated 07.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 03.04.2021 when the respondent/police checking the vehicles at Mettupatti Toll gate,



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near Vazhapadi to Salem Main Road, they intercepted TATA SUMO vehicle bearing registration No.TN-31-Q-4555 and interrogated the accused. On suspicion, they searched the TATA SUMO and found 48 bottles of Top Star Brandy each containing 180 ml and arrested the accused 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. 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 48 bottles of Top Star Brandy each containing 180 ml. He would further submit that in the present case show cause notice was 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.191 of 2021 against the petitioner for the offence under Section 4(1)(a) of Tamil Nadu Prohibition Act and also seized the TATA SUMO 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 TASMAC Shops, it is very easy for the public to access the subject matter liquor, this Court directs the learned District Munsif-cum-Judicial Magistrate, Vazhapadi to return TATA SUMO vehicle bearing Registration No.TN-31-Q-4555, 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 07.07.2021 made in C.M.P.No.423 of 2021 by the learned District Munsif-cum-Judicial Magistrate, Vazhapadi.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

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To

- 1.The District Munsif-cum-Judicial Magistrate,
Vazhapadi.
- 2.The Inspector of Police,
Vazhapadi Police Station,
Salem District.
- 3.The Joint Secretary of Treasurer,
Chief Minister's Public Relief Fund
Finance(CMPRF) Department,
Government of Tamil Nadu, Secretariat
Chennai-09



4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.W.Camyles Gandhi, Advocate, S.R.No.46785

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RSI(CO)
CB(06/10/2021)

Cr1.R.C.No.551 of 2021