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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.558 OF 2021

Arunkumar

... Petitioner

Versus

State Rep. by
The Inspector of Police,
Prohibition Enforcement Wing,
Gudiyatham, Vellore District,
Crime No.376 of 2021.

... Respondent

PRAYER:- Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records on the file of the learned Judicial Magistrate, Gudiyatham, Vellore District in CrI.M.P.No.2664 of 2021 dated 07.08.2021 and set aside the order.

For Petitioner : Mr.E.Kannadasan

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

O R D E R

This Criminal Revision Case has been filed against the order dated 07.08.2021 made in C.M.P.No.2664 of 2021 by the learned Judicial Magistrate, Gudiyatham, Vellore District.

2. It is the case of the petitioner that the respondent police registered a case in Crime No.376 of 2021 against the petitioner for the offence under Sections 4(1) (a) and 4(1-A) (ii) of Tamil Nadu Prohibition Act and seized the Ashok Leyland Lorry bearing Registration No.KA-05-AE-2252. The petitioner filed a petition under Section 451 and 457 of Cr.P.C in CrI.M.P.No.423 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate, Gudiyatham, Vellore District, by an order, dated 07.08.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.



3. The case of the prosecution is that on 26.05.2021 at about 00.15 hours, when the respondent/police checking the vehicles at Pathrapalli Check Post, they intercepted Ashok Leyland Lorry bearing Registration No.KA-05-AE-2252 and interrogated the accused. On suspicion, they searched the vehicle and found 205 bottles of other State liquor bottles 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. The offence was committed by the driver of the vehicle. 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 205 bottles of other State liquor. 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.376 of 2021 against the petitioner for the offence under Section 4(1)(a) and 4(1-A)(ii) 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 Judicial Magistrate, Gudiyatham, Vellore District to return the Lorry bearing Registration No. KA-05-AE-2252 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;

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(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 07.08.2021 made in C.M.P.No.2664 of 2021 by the learned Judicial Magistrate, Gudiyatham, Vellore District.

Sd/-
Assistant Registrar(CS IX)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Gudiyatham,
Vellore District.



2. The Inspector of Police,
Prohibition Enforcement Wing,
Gudiyatham, Vellore District.
3. The Public Prosecutor,
High Court, Madras.
4. The Joint Secretary & Treasures,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat,
Chennai - 600 009.
5. The Manager,
Indian Overseas Bank (ECS),
Secretariat Branch,
Chennai - 600 009.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.47265

CRL.R.C.NO.558 OF 2021

PA(CO)
PBS/06/10/2021