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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.573 of 2021

Ganesh

.. Petitioner/Accused

Versus

State By

The Inspector of Police,
Alangiyam Police Station,
Tiruppur District.
(Crime No.451 of 2021)

.. Respondent/Complainant

Criminal Revision Case filed under Section 397 read with 401 Criminal Procedure Code, to set aside the order passed in CrI.M.P. No. 901 of 2021 on the file of the learned Judicial Magistrate, Dharapuram, Tiruppur District dated 07.08.2021 and also to pass orders to return the vehicle bearing registration No. TN 59 T 6768 (MARUTHI OMNI CAR) to the petitioner forthwith.

For Petitioner : Mr.C.V.Kumar
for Mr.C.Mohanraj

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

O R D E R

This Criminal Revision Case has been filed, seeking a direction to set aside the dismissal order dated 07.08.2021 in C.M.P.No.901 of 2021, passed by the learned Judicial Magistrate, Dharapuram, Tiruppur District and for a consequential direction to return the vehicle bearing Registration No.TN-59-T-6768 (MARUTI OMNI CAR) to the petitioner, which was seized in Crime No.451 of 2021, by the



respondent police / the Inspector of Police, Alangiyam Police Station, Tiruppur District.

2.The petitioner/accused claims to be the owner of the vehicle viz., MARUTI OMNI CAR bearing Registration No.TN-59-T-6768, MB silver colour, having Engine No.F8BIN2498250 and Chassis No.ST91IN581104. He had filed a petition, under Section 451 & 457 of Cr.P.C., in CrI.M.P.No.901 of 2021 for releasing the said four wheeler vehicle, which was seized in connection with Crime No.451 of 2021. The learned Judicial Magistrate, Dharapuram, Tiruppur District by an order, dated 07.08.2021 dismissed the petition, against which, the petitioner has filed the present Criminal Revision Case before this Court.

3.The case of the prosecution is that on 20.06.2021, when the respondent/police was on routine inspection at temporary check post made for pandemic situation at Alangiyam to Palani road, they intercepted the MARUTI OMNI CAR bearing Registration No.TN-59-T-6768, at about 05.45 p.m., and interrogated the petitioner and he given inconsistent answer. On suspicion, they searched the vehicle and found 74 various types of TASMAC liquor Bottles. Therefore, the respondent/police registered a case in Crime No.451 of 2021, for offence under Section 4(i)(a) of Tamil Nadu Prohibition, Act, 1937 and seized the above said vehicle. Thereafter, the petitioner filed a petition under Section 451 & 457 of Cr.P.C., before the learned Judicial Magistrate, Dharapuram in CrI.M.P.No.901 of 2021, to direct the respondent/police to release the above said four wheeler vehicle and the same was dismissed. Hence, the present case.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. He would submit that the vehicle is kept in open space and in the exposure of sun and rain and thereby, it would get severely damaged. The petitioner had filed a petition before the learned Judicial Magistrate, Dharapuram seeking for return of vehicle whereas, the learned Magistrate, without considering the fact, by relying the order of this Court dated 16.07.2020 in CrI.RC.No.572 of 2020, in the case of J.Pradeep Vs. State Rep.by, the Inspector of Police, Polur Police Station, Polur, Thiruvannamalai District, wherein held that no orders for interim custody of the vehicle could be granted and dismissed the petition with liberty to the petitioner to contest the confiscation proceedings,



dismissed the petition in CrI.M.P.No.901 of 2021. Therefore, the petitioner has filed the present revision before this Court. He would further submit that the petitioner is prepared to comply with any condition imposed by this Court and he would pray that the vehicle may be returned to the petitioner.

5.The learned Government Advocate (CrI. Side) would submit that the said vehicle is involved in illegal transportation of 74 bottles of Brandy while the Government of Tamil Nadu had shut down the TASMAL shops during lock down. He would submit that the confiscation proceedings have already been initiated and the show cause notice has also been issued to the petitioner. Since, the confiscation proceedings have already been initiated, 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.On a perusal of records, it is seen that the case was registered in Crime No.451 of 2021 and the vehicle was seized. Pending investigation, the petitioner filed a petition for releasing his vehicle, however, the same was dismissed by the Court below. 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 Judicial Magistrate, Dharapuram, to return the vehicle MARUTI OMNI CAR bearing Registration No.TN-59-T-6768, 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 adjudication is over;



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(iii) The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), as non-refundable deposit through RGS/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 passed subject to the outcome of the confiscation proceedings.

8. With the above observations and directions, the Criminal Revision Case is allowed by setting aside the order passed in C.M.P.No.901 of 2021, dated 07.08.2021 by the learned Judicial Magistrate, Dharapuram.

Sd/-
Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

klt



To

1.The learned Judicial Magistrate, Dharapuram, Tiruppur.

2.The Inspector of Police,
Alangiyam Police Station,
Tiruppur District.

3.The Joint Secretary & Treasurer,
Chief Minister's Public relief fund,
Finance (CMPRF) Department,
Government of Tamilnadu,
Secretariat, Chennai-9.

4.The Public Prosecutor,
High Court, Madras.

+1CC to M/s.C.Mohanraj, Advocate, SR.No. 48149

Cr1.R.C.No.573 of 2021

SJ(CO)
B.VC (26/10/2021)