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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.567 OF 2021

A.Ayub Khan

... Petitioner

Versus

State Represented by
Inspector of Police,
Kundadam Police Station,
Tiruppur District.
Crime No. 631 of 2021.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Criminal Procedure Code, to set aside the order passed in CrI.M.P.No.558 of 2021 by the learned Judicial Magistrate, Dharapuram, Tiruppur District dated 20.07.2021 and also pass orders to return the vehicle bearing Registration No. TN-59-AZ-4066 (TATA SUMO VICTA CAR) to the petitioner.

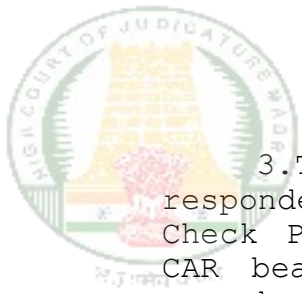
For Petitioner : Mr.C.Mohan Raj

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 20.07.2021 passed in CrI.M.P.No.558 of 2021 by the learned Judicial Magistrate, Dharapuram, Tiruppur District.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.631 of 2021 against the petitioner for the offence under Section 4(1) (aaa) of Tamil Nadu Prohibition Act and seized the vehicle viz., TATA SUMO VICTA CAR bearing Registration No.TN-59-AZ-4066. The petitioner filed a petition under Section 451 and 457 Cr.P.C in CrI.M.P.No. 558 of 2021 seeking interim custody of the vehicle. The the Learned Judicial Magistrate, Dharapuram, Tiruppur District by an order dated 20.07.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.



3.The case of the prosecution is that on 01.07.2021 when the respondent/police checking the vehicles at Kundadam Three road Check Post, they intercepted the four wheeler TATA SUMO VICTA CAR bearing Registration No.TN-59-AZ-4066. On suspicion, they searched the vehicle and found 904 liquor bottles and hence, the case in Crime No.631 of 2021 was registered against the petitioner for offence under Section 4(1) (aaa) of Tamil Nadu Prohibition, Act, 1937 and arrested the accused 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, he seeks interim custody of the said vehicle and that the petitioner 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 since the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles. He would further submit that already show cause notice was issued to the petitioner and confiscation proceedings is going to be 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 records, it is seen that the respondent police registered the case in Crime No.631 of 2021 against the petitioner for the offence under Section 4(1) (aaa) of Tamil Nadu Prohibition, Act, 1937 and also seized the vehicle. Pending investigation, the petitioner filed a 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, Dharapuram, Tiruppur District to return the vehicle TATA SUMO VICTA CAR bearing Registration No.TN-59-AZ-4066 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 passed in CrI.M.P.No.558 of 2021 by the learned Judicial Magistrate, Dharapuram, Tiruppur District dated 20.07.2021

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Dharapuram,
Tiruppur District



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

3. The Public Prosecutor,
High Court, Madras.

4. The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Secretariat, Chennai 600 009,

+1cc to Mr.C.Mohan Raj, Advocate, S.R.No.48150

Cr1.R.C.No.567 of 2021

PL(CO)
PM/07/10/2021