



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.No.17486 of 2021

Balakrishnan.

... Petitioner

Versus

The Sub - Inspector of Police,
Ethappur Police Station,
Salem District.
(Crime No.227 of 2021).

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the respondent police to produce the vehicle bearing registration No.TN 77 2019, before the Court of Judicial Magistrate No.1, Attur, Salem District in view of the order dated 22.06.2021 made in Crl.M.P.No.1368 of 2021 passed by the Judicial Magistrate No.1, Attur, Salem District.

For Petitioner : Mr.S. Sathish.

For Respondents: Mr.A.Damodharan,
Addl. Public Prosecutor.

ORDER

This Criminal Original Petition has been filed to direct the respondent police to produce the vehicle/Auto bearing registration No.TN 77-2019 before the Judicial Magistrate No.1, Attur, Salem as per the order passed in Crl.M.P.No.1368 of 2021 dated 22.06.2021.

2. The contention of the petitioner is that the petitioner has filed a petition in CRL.M.P.No.1368 of 2021 before the lower Court seeking return of his three wheeler vehicle/Auto bearing Registration No.TN-77-2019, which has been seized by the respondent police in Crime No.227 of 2021. The lower Court, by an Order dated 22.06.2021, directed the respondent police to produce the said vehicle before the lower Court and to get the case property number assigned to the same. Despite the order of the lower Court dated 22.06.2021, the respondent police is yet to produce the vehicle before the lower Court.



3. The learned Additional Public Prosecutor submitted that the petitioner's Auto is involved in Crime No. 227 of 2021 for the offence under Section 4(1) (aaa) of Tamil Nadu Prohibition Act. The Auto was found to be transporting liquor bottles, illegally, on 09.05.2021 and hence the vehicle and the liquor bottles were seized by the respondent police.

4. On instructions, he further submitted that till date, the vehicle has not been produced before the concerned Court and confiscation proceedings are yet to be initiated.

5. Considering the submissions and from the perusal of the records, it is seen that by an order dated 22.06.2021 in CrI.M.P.No.1368 of 2021, the lower Court has directed the respondent police to produce the vehicle in Crime No.227 of 2021. Despite the same, the respondent police had not obeyed the orders of the lower Court.

6. Even if the confiscation proceedings are initiated, this Court, on several occasions, held that pendency of confiscation proceedings would not be a bar for the Courts to return/hand over the vehicle to its owner. The only condition is that the return of property is subjected to confiscation proceedings.

7. In view of the same, the respondent police is directed to produce the vehicle/Auto involved in Crime No.227 of 2021 before the Judicial Magistrate No.I, Attur, by 07.10.2021. After receipt of the said vehicle/Auto, the lower court is directed to hand over the same to the petitioner with conditions, finding that the petitioner's only livelihood is the Auto and from May 2021, the petitioner's livelihood has been deprived.

8. With the above directions, this Criminal Original Petition is disposed of accordingly.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



To

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1. The Judicial Magistrate, No.1,
Attur, Salem District.
 2. The Sub - Inspector of Police,
Ethappur Police Station,
Salem District.
 3. The Public Prosecutor,
High Court, Madras.
- + 1cc to Mr. S. Sathish, Advocate Sr.50812

CRL.O.P.No.17486 of 2021

PA(CO)
EU 01.10.2021