



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.07.2021
CORAM

WEB COPY

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM

W.P.No.15137 of 2014
& M.P.No.1 of 2014

Aaron Anthony Dgraca

...Petitioner

Vs.

The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Kancheepuram District,
Kancheepuram.

...Respondent

Prayer: Writ Petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records of the respondent in connection with the impugned order passed in Na.Ka.No.15/Addl SP/PEW/Kanchi/2014 dated 29.05.2014 and quash the same and direct the respondent to release the Vehicle TN05 AV 0274, pending disposal of the criminal case registered in crime No.202/2014 on the file of the Mamallapuram PEW, Kancheepuram District u/s 4(i)(a) of Tamil Nadu Prohibition Act (Transporting).

For Petitioner : Mr.Jaikumar Ranganathan
for Mr.K.Balaji

For Respondent : Mr.V.Veluchamy
(Government Advocate)

O R D E R

The order impugned dated 29.05.2014, confiscating the vehicle belongs to the petitioner, pending disposal of the criminal case registered in Crime No.202/2014 is under challenge in the present Writ Petition.

2.Admittedly, the petitioner is an Anglo-Indian and a business man. He is an assessee to Income Tax. He has purchased a Hyundai I-20 vehicle bearing TN-05-AV-0274 for valuable consideration of Rs.7 Lakhs, through Hypothecation from HDFC Bank, Chennai. The learned counsel for the writ petitioner made a submission that due to wordy quarrel, the vehicle belongs to the petitioner was confiscated without any valid reason and contrary to law. In this regard, admittedly, a criminal case was registered in Crime No.202/2014 on the file of the Mammallapuram PEW, Kancheepuram District u/s 4(i)(a) of Tamil Nadu Prohibition



Act. The criminal case is still pending. Under these circumstances, the petitioner has to approach the competent criminal Court of law for return of property. Once the properties are seized with reference to criminal case, the appropriate petition would lie before the competent criminal Court under the Code of Criminal Procedure and writ proceedings cannot be entertained.

3. This Court is of the considered opinion that release of vehicle involves adjudication of certain facts. A criminal case, admittedly, is pending. Thus, the nature of offence and the facts leading to the registration of criminal case are to be considered for release of vehicle and such exercise cannot be done by the High Court under Article 226 of the Constitution of India. Further, there is a specific provision under the Criminal Procedure Code, for return of property, and therefore, the petitioner has to approach the competent Court of law. The learned counsel for the petitioner made a submission that the petition filed for return of property in the year 2014 was dismissed. However, the petitioner is at liberty to urge the competent Court for speedy disposal of the criminal case or for grant of appropriate relief.

In these circumstances, the relief as such sought for in the present Writ Petition cannot be granted and accordingly, the Writ Petition stands dismissed. No costs. Consequently, connected Miscellaneous Petition is closed.

s/d-

Assistant Registrar (CS VII)

True Copy

Sub-Assistant Registrar

gsa
To

The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Kancheepuram District,
Kancheepuram.

+1 CC to The Government Pleader, Sr 33552.
+1 CC to Mr.K.Balaji, Advocate, Sr.33227.

W.P.No.15137 of 2014

PVS (CO)
SP(10/08/2021)