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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.591 of 2021

Pradeep

... Petitioner

..Vs..

State rep. by
The Inspector of Police
PEW Tiruppur
Tirupur District
(Crime No.765 of 2021)

... Respondent

Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code praying to set aside the order passed in CrI.M.P.No.2260 of 2021 in Crime No.765 of 2021 on the file of the Judicial Magistrate, Palladam, dated 18.08.2021.

For Petitioner : Mr.Gopalakrishnan
for Mr.B.Kumarasamy

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

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 18.08.2021 passed in CrI.M.P.No.2260 of 2021 on the file of the Judicial Magistrate, Palladam, in connection with Crime No.765 of 2021.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.765 of 2021 against one Rathina Sabapathy for the offence under Section 4(1)(a) of TNP Act (Transport) and seized the vehicle "Hyundai 120 Sportz+VTVT



(Colour:STAR DUST)" bearing Registration No. TN 40 S 4946, Engine Number G4 LAKM245428, Chassis No.MALBM51BLKM678547. During the pendency of the investigation, the petitioner filed an application before the Judicial Magistrate, Palladam, in CrI.M.P.No.2260 of 2021 under Sections 451 and 457 of Cr.P.C seeking relief of interim custody of the vehicle and the learned Magistrate by order dated 18.08.2021 dismissed the same. Challenging the said order, the petitioner has filed the present revision before this Court.

3.The case of the prosecution is that on 18.06.2021 at about 17.30 hrs. when the respondent/police were conducting vehicle check up near Putharassal Pirivu, they intercepted a four wheeler bearing Registration No. TN 40 S 4946 and on search, they found 12 Nos. of 750 ml Brandi Bottles without any valid permit from the Government. Hence the case in Crime No.765 of 2021 was registered against the accused and the vehicle was seized.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. The petitioner had given the custody of the vehicle to the accused and that the accused without his knowledge has misused the vehicle. He would submit that the vehicle is kept in open space and in the exposure of sun and rain and thereby, the vehicle would get severely damaged. The petitioner had filed a petition before the learned Judicial Magistrate, Palladam, seeking interim custody of the vehicle whereas, the learned Magistrate, without considering the fact, dismissed the petition. Therefore, the petitioner has filed the present revision before this Court. He would further submit that the petitioner is prepared to abide by 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 12 Nos. of Brandy bottles and 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. Heard the learned Counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent police and perused the materials on record.

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7. Considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to natural calamities, this Court directs the Judicial Magistrate, Palladam, to return the vehicle "Hyundai 120 Sportz+VTVT" bearing Registration No. TN 40 S 4946, 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;



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(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.

8. Accordingly, this Criminal Revision case is allowed by setting aside the order dated 18.08.2021 passed in CrI.M.P.No.2260 of 2021 on the file of the Judicial Magistrate, Palladam.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Palladam

2.The Inspector of Police
PEW Tiruppur, Tirupur District

3.The Public Prosecutor, High Court, Madras.

Copy to

1. The District Collector, Palladam.

2. The Joint Secretary & Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009.

3. The Indian Overseas Bank,
Secretariat Branch, Chennai 600 009.

+1CC to M/s.B.Kumarasamy, Advocate, SR.No. 50953

CrI.R.C.No.591 of 2021

PMK(CO)

B.VC (20/10/2021)