



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.09.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Criminal Revision Case No.593 of 2021

Syed Basheer

... Revision Petitioner

Vs.

The State, rep. by
The Sub -Inspector of Police
Karuppur Police Station
Salem District
(Crime No.178 of 2021)

... Respondent

Criminal Revision Case filed under Section 397(1) and 401 of Criminal Procedure Code praying to call for the records and allow the revision by setting aside the order passed by the Judicial Magistrate No.2, Salem, in C.M.P.No.943 of 2021 dated 23.08.2021 and order the vehicle TATA 407 (Turbo) TEMPO bearing Reg.No.KA-01-C-8853 to be returned to the petitioner for interim custody in Crime No.178 of 2021 on the file of the Sub-Inspector of Police, Karuppur Police station.

For Petitioner : Mr.B.Vasudevan

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

ORDER

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order passed by the Judicial Magistrate No.II, Salem, in C.M.P.No.943 of 2021 dated 23.08.2021 and order the vehicle TATA 407 (Turbo) TEMPO bearing Reg.No.KA-01-C-8853 in Crime No.178 of 2021 on the file of the respondent police, to be returned to the petitioner for interim custody.



2. It is the case of the petitioner that the respondent police registered a case in Crime No.178 of 2021 against the accused persons for the offence under Sections 4(1)(aaa), 4(1-A) of TNP Act (Transport) and seized the vehicle TATA 407 (Turbo) TEMPO bearing Reg.No.KA-01-C-8853. During the pendency of the investigation, the petitioner filed an application before the Judicial Magistrate-II, Salem, in CrI.M.P.No.943 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 23.08.2021 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 09.06.201 at about 5.15 p.m. when the respondent/police were conducting vehicle check up near Omalur-Salem Bypass, Karuppur Toll Gate, they intercepted a four wheeler bearing Regn.No. KA-01-C-8853 and on search, they found liquor bottles (Karnataka State) without any valid permit from the Government. Hence the case in Crime No.178 of 2021 was registered against the accused persons and the vehicle was seized.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he has no knowledge about the involvement of his vehicle by the accused persons. He would further submit that the vehicle is kept in open place in the respondent police station and due to exposure of sun and rain, the value of the vehicle would be diminished. He would submit that the petitioner had filed a petition before the learned Judicial Magistrate-II, Salem, for return of 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 liquor bottles (Karnataka State) 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 (CrI. Side) appearing for the respondent police and perused the materials on record.



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 learned Judicial Magistrate-II, Salem, to return the vehicle "TATA 407 (Turbo) TEMPO" bearing Reg.No.KA-01-C-8853 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.



8. Accordingly, this Criminal Revision case is allowed by setting aside the order in C.M.P.No.943 of 2021 dated 23.08.2021 passed by the learned Judicial Magistrate No.II, Salem.

Ksa-2

-Sd/-
Assistant Registrar

TRUE COPY

Sub-Assistant Registrar

To

1. The Judicial Magistrate-II, Salem
2. The Sub -Inspector of Police
Karuppur Police Station
Salem District
3. The Public Prosecutor,
High Court, Madras.

COPY TO:

1. The District Collector,
Salem.
2. The Joint Secretary & Treasurer,
Chief Minister's Relief Fund,
Finance (CMPRF) Department,
Government of TamilNadu,
Secretariat, Chennai 600 009.
3. The Branch Manager,
Indian Overseas Bank,
Secretariat Branch,
Chennai-600 009.

+1 C.C to M/S.B.VASUDEVAN, Advocate SR.No.50580

Cr1.R.C.No.593 of 2021

PMK (CO)
GS (20/10/2021)