



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2021

WEB COPY

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRL.R.C.No.604 of 2021

Ayyappan,
S/o, Arumugam

... Petitioner/owner of the Vehicle

Versus

State Rep. By
The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.
(Crime No.432/2021)

... Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of the Code of Criminal Procedure, to set aside the order passed in C.M.P.No.1159 of 2021 dated 15.09.2021 on the file of the Judicial Magistrate, Tiruchengode, Namakkal District and direct the respondent to release the two wheeler 'Honda DIO Scooty' bearing Registration No.TN34AA0002 which was seized in connection with the Cr.No.432 of 2021 on the file of the respondent police to the petitioner.

For Petitioner : Mr.C.S.Saravanan

For Respondent : Mr.M.Sugendran
Government Advocate, (Criminal Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 15.09.2021 passed in C.M.P.No.1159 of 2021 on the file of the Judicial Magistrate, Tiruchengode, Namakkal District and direct the respondent to release the two wheeler 'Honda DIO Scooty' bearing Registration No.TN34AA0002 which was seized in connection with the Crime.No.432 of 2021 on the file of the respondent police to the petitioner.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.432 of 2021 against one Kirubakaran, who driven the vehicle, for the offence under Section 4(1) (a), 4(1-A) of Tamil Nadu Prohibition Act and seized the vehicle viz.,Two wheeler 'Honda DIO Scooty' bearing



Registration No.TN 34AA0002. The petitioner filed a petition under Section 451 Cr.P.C in CrI.M.P.No.1159 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate, Tiruchengode by an order, dated 15.09.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 15.08.2021 when the respondent/police checking the vehicles at Raja Siddha Hospital, Karumagakoundampalayam, they intercepted the vehicle viz.,Two wheeler 'Honda DIO Scooty' bearing Registration No.TN 34 AA 0002. On suspicion, they searched the vehicle and found 96 bottles of Brandy and hence, the case in Crime No.432 of 2021 was registered against one Kirupagaran, who driven the alleged vehicle, for offence under Section 4(1) (a), 4(1-A) of Tamil Nadu Prohibition, Act, 1937 and seized the above said vehicle.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is 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 (CrI.Side) appearing for the respondent would submit that since the accused was alleged to have used the said vehicle for illegal transportation of liquor bottles, show cause notice was issued to the petitioner and confiscation proceedings 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.432 of 2021 against the petitioner for the offence under Section 4(1) (a), 4(1-A) of Tamil Nadu Prohibition, Act, 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, Tiruchengode, to return the vehicle Two wheeler 'Honda DIO Scooty' bearing Registration No.TN 34 AA 0002, 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.25,000/- (Rupees Twenty Five Thousand 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.1159 of 2021, dated 15.09.2021 by the learned Judicial Magistrate, Tiruchengode.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar



mfa

To

WEB COPY

1. The Judicial Magistrate,
Judicial Magistrate Court,
Tiruchengode,
Namakkal District.
2. The Inspector of Police,
Tiruchengode Rural Police Station,
Namakkal District.
3. The Public Prosecutor, (Criminal Side)
High Court,
Madras.

Copy to

1. The District Collector,
Namakkal Collectorate, Namakkal.
2. The Joint Secretary and Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu, Secretariat,
Chennai-600009.

CRL.R.C.No.604 of 2021

sra[col]
srg 12/10/2021