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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.10.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.645 of 2021

E.Sudhakar

... Petitioner

Vs.

1. The State Represented by
Sub-Inspector of Police
Valavanthinadu Police Station
Namakkal
In Crime No.207 of 2021

2. Devabalan

3. Rajendran

4. Sanker

5. Ravisanker

... Respondents

Criminal Revision Case filed under Section 397 read with 401 of Criminal Procedure Code praying to call for the records passed in C.M.P.No.1192 of 2021 dated 01.09.2021 on the file of Judicial Magistrate, Sendamangalam, and set aside the same and allow the Criminal Revision Petition.

For Petitioner : Mr.V.Rajesh babu

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 dated 01.09.2021 in C.M.P.No.1192 of 2021 passed by the learned Judicial Magistrate, Sendamangalam.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.207 of 2021 against the



respondents 2 to 4 and another for the offence under Sections 4(1)(a), 4(1-A) of TNP Act and seized a four wheeler bearing Regn.No.TN-49-BH-1455 (Maruthi Ecco). During the pendency of the investigation, the petitioner filed an application before the Judicial Magistrate, Sendamangalam, in CMP No. 1192 of 2021 under Sections 457 of Cr.P.C. for return of vehicle and the learned Magistrate by order dated 01.09.2021 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 21.06.2021 when the 1st respondent along with his police party were patrolling at Senkarai to Nariyankadu Road, the respondents 2 to 4 were found illegally transporting 10 litters of illicit arrack by using a four wheeler bearing Regn.No.TN-49-BH-1455 (Maruthi Ecco). Hence the case in Crime No.207 of 2021 was registered against the accused persons and the said vehicle was also seized.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the said vehicle and he is not involved in the above crime number either directly or indirectly and that the driver of the vehicle/the 2nd respondent herein has misused the vehicle without the knowledge of the petitioner. He would further submit that the petitioner's only source of income is derived from the said vehicle and because of the sudden seizure of the vehicle in the said case, the petitioner is unable to meet out his daily needs. 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 (Cr1. Side) would submit that the said vehicle is involved in illegal transportation 10 liters of illicit arrack 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 (Cr1. 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, Sendamangalam, to return the vehicle bearing Regn.No.TN-49-BH-1455 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 01.09.2021 in C.M.P.No.1192 of 2021 passed by the learned Judicial Magistrate, Sendamangalam.

Sd/-
Assistant Registrar(CS-VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate, Sendamangalam.
2. The Sub-Inspector of Police
Valavanthinadu Police Station
Namakkal
- 3.The Joint Secretary & Treasurer
Chief Minister Relif fund,
Finance (CMPRF)Department, Government of Tamilnadu,
Secretariat, Chennai-9.
- 4.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Rajesh Babu, Advocate, S.R.No.54413

Cr1.R.C.No.645 of 2021

GMR(CO)
SB(01/11/2021)