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CRL.O.P.No.21216 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.11.2021

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.No.21216 of 2021

Ganesan

... Petitioner

Versus

The State represented by
The Inspector of Police,
Dharapuram PEW Police Station,
Tiruppur District.

... Respondent

PRAYER: Criminal Original Petition is filed under Section 482 of Cr.P.C. to set aside the order dated 21.09.2021 made in C.R.P.No.19 of 2021 on the file of the Principal Sessions Judge, Tiruppur in CMP.No.513 of 2021 on the file of the Judicial Magistrate, Dharapuram dated 13.07.2021, by allowing the present Criminal Original Petition.

For Petitioner : Mr.R.Ashwin

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Crl. Side)

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before the Judicial Magistrate Court, Dharmapuri and the same was dismissed by the learned Judicial Magistrate, Dharmapuri on 13.07.2021. Thereafter, the petitioner preferred a revision in C.R.P.No.19 of 2021 before the Principal Sessions Court, Tiruppur, which was dismissed on 21.09.2021. Hence the above petition is filed.

4.The learned Government Advocate [Crl. Side] submits that the confiscation proceedings for the vehicle has been initiated and the show cause notice issued to the petitioner. The petitioner participated in the confiscation proceedings and thereafter, the vehicle was confiscated on 25.08.2021. The petitioner having participated in the confiscated proceedings, he has to challenge the same by way of an appeal before the appellate court.

5.The petitioner's grievance is that the petitioner's livelihood is based on the said vehicle. The petitioner has rented out the vehicle to a person and the person, who took the vehicle on rent had committed the above offence, for which the petitioner shall not be penalised. Further the



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petitioner has got liabilities to be settled. Now due to the confiscation his entire livelihood has become questionable one.

6.He further submits that he disputes the show cause notice and also disputes the manner in which the confiscation proceedings initiated, conducted, further under Section 14(4) (3) of the Tamil Nadu Prohibition Act. The petitioner has to be given a personal hearing. But in this case, no such opportunity was granted to the petitioner, which is in violation of Principle of natural justice. The confiscation authority had confiscated the vehicle with a preconceived notion. Further under Section 14(5) of Tamil Nadu Prohibition Act, the petitioner has to file an appeal before the Sessions Court, within a period of 30 days, from the date of the confiscation order. In this case that 30 days time got elapsed and the right of appeal to the petitioner is denied. Further on a wrong premise petitioner had initiated the proceedings before the Magistrate Court, Sessions Court and now before this Court.



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7.Considering the submissions and on perusal of the materials, this Court finds that the reason given by the petitioner reasonable and acceptable. Hence, this Court directs the learned Principal Sessions Judge, Tiruppur to entertain the appeal filed by the petitioner, condoning the delay and dispose of the appeal against the confiscation proceedings in accordance with law. The petitioner is directed to file the appeal, within a period of two weeks, from the date of receipt of a copy of this order.

8.With the above directions, this Criminal Original Petition stands disposed of.

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Index: Yes/No
Internet: Yes/No
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To

- 1.The Principal Sessions Judge,
Tiruppur.
- 2.The Judicial Magistrate,
Dharapuram.
- 3.The Inspector of Police,
Dharapuram PEW Police Station,
Tiruppur District.
- 4.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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