



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

Criminal Revision Case No.678 of 2021

P. Priyadarshini

...Petitioner/Owner of the vehicle

Versus

State rep. By its
Inspector of Police,
Tiruvanamalai Taluk Police Station,
Tiruvanamalai, Tiruvanamalai District.
Crime No.459 of 2021.

...Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records and the set aside the order dated 16.07.2021 passed in Crl.M.P.No.1462 of 2021 in Crime No.459 of 2021 by the learned Judicial Magistrate, No.II Tiruvannamalai and grant relief sought for under section 457 CRPC.

For Petitioner : Mr.P.Murali
for Mr.G.Tamilselvan

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

O R D E R

This Criminal Revision Case has been filed against the order dated 16.07.2021 passed in Crl.M.P.No.1462 of 2021 by the learned Judicial Magistrate, No.II Tiruvannamalai.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.459 of 2021 against the petitioner for the offence under Sections 4(1)(aaa) and 4(1-A) (ii) of Tamil Nadu Prohibition Act and seized the vehicle viz., Ashok Leyland Dost Goods Carrier bearing registration No.KA-51-D-5054. The petitioner filed a petition under Section 451 and 457 Cr.P.C in Crl.M.P.No.1462 of 2021 seeking interim custody of the vehicle. The learned Judicial Magistrate, No.II Tiruvannamalai, by an order, dated 16.07.2021 dismissed the petition, against which, the present Criminal Revision Case.



3.The case of the prosecution is that on 30.05.2021 when the respondent/police checking the vehicles at Tiruvannamalai-Sengam Road they intercepted the Ashok Leyland Dost Goods Carrier bearing registration No.KA-51-D-5054 and interrogated the accused viz., Prakash and Aravind. On suspicion, they searched the vehicle and found 672 Whisky bottles and arrested the accused for the alleged transportation of liquor from Karnataka and also seized the said vehicle.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and she is in no way connected with the alleged offence. Therefore, the petitioner seeks interim custody of the said vehicle and that she would abide by stringent conditions, if any, to be imposed on her.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that since the petitioner was alleged to have used the said vehicle for illegal transportation of liquor bottles. He would further submit that show cause notice was issued to the petitioner and confiscation proceedings is going to be 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 the records, it is seen that the respondent police registered the case in Crime No.459 of 2021 against the petitioner for the offence under Sections 4(1)(aaa) and 4 (1-A) (ii) of Tamil Nadu Prohibition Act and also seized the vehicle. Pending investigation, the petitioner filed the 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, No.II Tiruvannamalai to return the vehicle (Ashok Leyland Dost Goods Carrier) bearing registration No. KA-51-D-5054, 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 her 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.

9.With the above directions, the Criminal Revision Case is allowed by setting aside the order dated 16.07.2021 passed in CrI.M.P.No.1462 of 2021 by the learned Judicial Magistrate No.II,Tiruvannamalai.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

pbl/ms

To

1. The Judicial Magistrate No.II,
Tiruvannamalai
2. The Inspector of Police,
Tiruvannamalai Taluk Police Station,
Tiruvannamalai,
Tiruvannamalai District.



3. The Public Prosecutor,
High Court, Madras.

Copy to

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

+1cc to Mr.G.Tamilselvan, Advocate, S.R.No.56491

Cr1.R.C.No.678 of 2021

VBM[co]
NSK 15/12/2021