

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.12.2021

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Criminal Revision Case No.785 OF 2021

Muniyappan

... Petitioner

..Vs..

State, Represented by,
The Inspector of Police,
J-12, Kanathur Police Station.
(Crime No.37/2021)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, to call for the records in CrI.M.P.No.1389 of 2021 on the file of the Judicial Magistrate II, Alandur dated 11.10.2021, set aside the same and direct the respondent to release the petitioner's vehicle TATA Ultra 101245 WB, Reg.No.TN22 DF 4856, Engine No.497TC92FTY825502, Chasis No.MAT751313G15674 to the petitioner.

For Petitioner : M/s.S.Sengkodi

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

ORDER

Today, this matter is listed under the caption 'for clarification' since after passing the order on 23.11.2021, it was brought to the notice of this court about a condition left out to be imposed in the order and hence, the order passed on 23.11.2021 is hereby recalled and the following order is passed.

2. This Criminal Revision Case has been filed against the dismissal of the petition seeking return of property.

3.Learned counsel for the petitioner would submit that the petitioner is the owner of TATA Ultra 101245 WB, Reg.No.TN22 DF 4856, Engine No.497TC92FTY825502, Chasis No.MAT751313G15674. He would submit that without the knowledge of the petitioner, the vehicle was used by the employees for illicit transport of tobacco products in respect of which the respondent has

registered a case in Crime No.37 of 2021 under Section 7 and 20 (2) of Cigarette and other Tobacco Products Act 2003 and Section 328 of IPC. He would further submit that the petitioner is not an accused. The vehicle has been seized and it is now in the custody of the respondent police. He would further submit that the vehicle is kept in open space exposing to vagaries of weather and thereby, the value of the vehicle is deteriorating day by day. He would submit that the petitioner is unable to put the vehicle to use and the petitioner is suffering and also incurring heavy financial loss. He would submit that the petitioner would abide by any stringent conditions to be imposed by this Court and he would be prepared to produce the vehicle before the respondent or before the concerned court as and when required by the Court. He would further submit that the petition filed before the learned Judicial Magistrate II, Alandur was dismissed on 11.10.2021 stating that the investigation is pending.

4.Mr.S.Sugendran, learned Government Advocate (Crl side) appearing for the respondent would submit that the petitioner vehicle involved in Crime No.37/2021 for the offences under Section 7 and 20(2) of Cigarette and other Tobacco Products Act 2003 read with Section 328 of IPC. He would submit that the investigation is pending. He would further submit that the petitioner is not an accused in this case. The other accused have been arrested and enlarged on bail.

5. Heard the learned counsels on both sides and perused the materials on record.

6.Taking into consideration of the fact that the petitioner is not an accused in this case and that the vehicle is parked in open exposure to vagaries of weather, this Court is inclined to grant interim custody of the vehicle to the petitioner.

7. In view of the above, the order of the learned Judicial Magistrate No.II, Alandur in Crl.M.P.No.1389 of 2021 dated 11.10.2021 stands set aside and the Criminal Revision Case stands allowed. The interim custody of the vehicle is directed to be handed over to the petitioner subject to 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.75,000/- (Rupees Seventy 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 respondent is at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

(vi) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority.
This order is subject to the confiscation proceedings.

Sd/-
Assistant Registrar (CS-VIII)

//True Copy//

Sub Assistant Registrar

vri/shk/ssk.

To

1. The Judicial Magistrate-II,
Alandur
2. Do Through The Chief Judicial Magistrate,
Alandur.

3. The Inspector of Police,
J-12, Kanathur Police Station.

4. The Public Prosecutor (Crl side),
High Court, Madras.

Copy To:

The Joint Secretary & Treasuries
Chief Minister public
Relief fund, Finance (CMPRF)
Department, Government of Tamil Nadu,
Secretariat, Chennai-9.

+1cc to Mr.S.Sengkodi, Advocate, S.R.No.60318

Crl. RC. No.785 OF 2021

KV(CO)
SB(14/12/2021)