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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2021

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.978 of 2021

D.Dhanasekar

... Petitioner

Vs.

The State represented by,  
The Sub Inspector of Police,  
Karuppur Police Station,  
Salem City.  
(Crime No.182 of 2021)

... Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 28.09.2021 made in Crl.M.P.No.1063 of 2021, passed by the learned Judicial Magistrate - II, Salem.

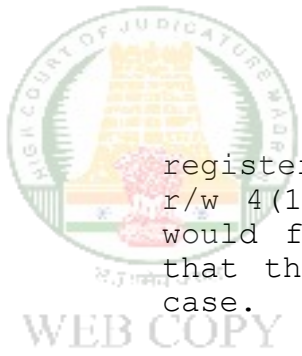
For Petitioner : M/s.V.Kaaviya

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

O R D E R

This Criminal Revision has been filed against the dismissal of the petition, seeking for interim custody/return of property.

2. Learned counsel appearing for the petitioner would submit that the petitioner is working as Branch Manager in Mahendra Construction Equipments Company, Salem and he is the owner of the Hyundai Eon Car bearing Registration No. TN-30-BD-5437 and on 15.06.2021, the car was taken by his subordinates viz., Kumar and Raja to reach their customer's place for service of machines and at that time, the said persons viz., Kumar and Raja, without the knowledge of the petitioner, have illegally transported 14 bottles of illicit liquor using the said car and on their way, the respondent had intercepted the car and recovered 14 bottles of illicit liquor from the accused and they were arrested



registered a case in Crime No.182 of 2021 under Section 4(1)(a) r/w 4(1-A) TNP Act, in which the car had also been seized. He would further submit that during enquiry, the respondent found that the petitioner has not been implicated as accused in this case.

3. He would submit that the petitioner is not the accused in this case and he is put to unnecessary hardship and he had filed a petition seeking for return of the car in Crl.M.P.No.1063 of 2021, however, the learned Judicial Magistrate No.II (FAC), Salem by order dated 28.09.2021, dismissed the Application stating that the confiscation proceedings had been initiated. He would further submit that the vehicle, which had been seized by the respondent in this case, has been parked in the open, exposed to vagaries of weather and thereby the value of the vehicle is diminishing day by day. He would further submit that the petitioner undertakes that the alleged vehicle will not be used for any other illegal activities in future and that the vehicle would be produced before the respondent or the confiscation authorities as and when required for investigation and thereby he would seek for return of the vehicle.

4. Per contra, learned Government Advocate (Crl.Side) would submit that the petitioner's car has been used by other accused for transporting illicit arrack and on the request of the respondent, the confiscating authority had issued a show cause notice dated 28.06.2021 and a reply to the same has also been given by the petitioner. He would further submit that the confiscation proceedings is going on and if the vehicle is returned to the petitioner, it could not be produced by the petitioner when required and therefore, the Trial Court, had rightly dismissed, finding that the confiscation proceedings were under process.

5. At this juncture, the learned counsel for the petitioner would submit that a direction may be issued to the confiscation authority to complete the proceedings at the earliest and pass orders, so as to enable the petitioner to file an Appeal if any adverse order is passed.

6. Taking into consideration the facts and circumstances of the case, that a show cause notice has been issued and a reply to the same has also been given by the petitioner, this Court is not inclined to grant interim custody of the vehicle at this stage.



7. In view of the above, the Criminal Revision Case stands disposed of and the confiscation authority is directed to complete the proceeding at the earliest, preferably, within two months from the date of receipt of a copy of this order.

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Sd/-  
Assistant Registrar

True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate - II,  
Salem.
2. The Sub Inspector of Police,  
Karuppur Police Station,  
Salem City.
3. The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.A.R.Suresh, Advocate, S.R.No.68966

Cr1.R.C.No.978 of 2021

BP[co]  
NSK 22/04/2022