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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM :

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

CRL.O.P.NO.23451 OF 2021

K.Ramya

...Petitioner

Versus

Inspector of Police,
Chettipalayam Police Station,
Coimbatore.
(Crime No.249 of 2021).

...Respondent

PRAYER : Criminal Original Petition has been filed under Section 482 of the Code of Criminal Procedure to set aside the order dated 13.09.2021 passed vide CMP.No.381/2021 on the file of the District Munsif cum Judicial Magistrate, Madukkarai.

For Petitioner : Mr.T.R.Sivaram

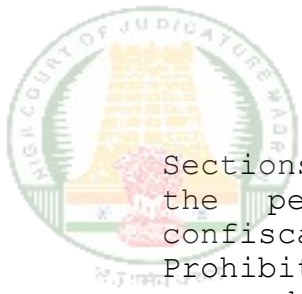
For Respondent : Mr.E.Raj Thilak
Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the order dated 13.09.2021, passed in CMP.No.381 of 2021 on the file of the District Munsif cum Judicial Magistrate, Madukkarai.

2.The petitioner, who is the owner of Maruthi Suzuki bearing registration No.TN 38 CS 2918, is challenging the dismissal order of the District Munsif cum Judicial Magistrate, Madukkarai, dated 13.09.2021 in C.M.P.No.381 of 2021.

3.The contention of the learned counsel for the petitioner is that the petitioner is not an accused in this case. The vehicle has been driven by the driver. The petitioner, for the purpose of income, used the vehicle as Taxi. On 10.06.2021, the driver of the vehicle Kandasamy informed that while he was returning from Bangalore, he carried some liquor bottles in the vehicle, which was seized by the Chettipalayam police during routine check up and he admitted that he was responsible for the entire offence. Thereafter, the vehicle was not produced before the lower Court. Hence, the petitioner filed a petition under



Sections 451 r/w 457 Cr.P.C. The Lower Court, while dismissing the petition, found that the vehicle has been already confiscated on 09.08.2021 as per Rule 14(4) of Tamil Nadu Prohibition Rules. He further submitted that in the prohibition proceedings, the petitioner filed a reply to the same, which was not considered. Further, in the confiscation proceedings, the Authority failed to provide an opportunity as mandated under Section 14(4)(iii) of the Tamil Nadu Prohibition Act. Hence, confiscation order is not sustainable. Any how, she is taking steps to challenge the same. Further, submitted that the Lower Court, on unsustainable confiscation order, cannot deny to return of vehicle. In support of his contention, the petitioner has produced the registration certificate of the vehicle, FIR, show cause notice, reply given and confiscation order.

4.The Additional Public Prosecutor appearing for the respondent submits that the confiscation proceedings is independent and the return of the property following Cr.P.C. is fairly independent. If the petitioner is aggrieved on the confiscation proceedings, he has to challenge the same by a separate petition, whether at all the petitioner has filed an appeal before the District Court, has to be seen. As regards the dismissal of the lower Court order, there is no reason to interfere with. since as on date the confiscation proceedings is in force, the vehicle has not been confiscated. After set aside of the confiscation order, the petitioner can have any right to return of the property.

5.With the above observations, the criminal original petition is dismissed with liberty to the petitioner to file a separate petition in the manner known to law.

Sd/-
Assistant Registrar(CS-VI)

// True Copy //

Sub Assistant Registrar

sms

To

1.The District Munsif cum
Judicial Magistrate,
Madukkarai.

2.Inspector of Police,
Chettipalayam Police Station,
Coimbatore. (Crime No.249 of 2021).



3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.T.R.Sivaram, Advocate SR.No.68053

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EV(CO)
RVM(12/01/2022)