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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.977 of 2021

Mohan Adhithyaa

...Petitioner

Vs.

State by
The Inspector of Police,
B-1, North Beach Police Station,
Chennai.
Crime No.1481 of 2021.

...Respondent / Complainant

PRAYER : The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, against the order passed by the Court of learned VII Metropolitan Magistrate at George Town in Crl.M.P.No.9887 of 2021 dated 09.11.2021 and to set aside the same.

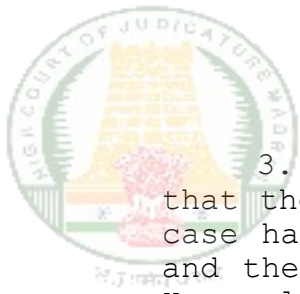
For Petitioner : Mr.R.Thamarai Selvan

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

O R D E R

This Criminal Revision Petition has been filed against the dismissal of the petition in Crl.M.P.No. 9887 of 2021 dated 09.11.2021 on the file of learned VII Metropolitan Magistrate, George Town.

2. Learned counsel for the petitioner would submit that the petitioner's wife is the owner of the MAHINDRA FURIO 14 D BS6 (Goods carrier) bearing Registration No.TN 12 AL 7171. He would submit that the vehicle has been used for the transporting goods. The petitioner had involved the vehicle in a case registered by the respondent in Crime No.1481 of 2021 for the offences punishable under Sections 353, 506(1) of I.P.C and 24 (1) of the CIGARETTE AND OTHER TOBACCO PRODUCTS ACTS, 2003. He would further submit that the petitioner was falsely implicated in this case.



3. Learned counsel for the petitioner would also submit that the vehicle which has 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 submit that the petitioner had filed a petition seeking for return of property in CrI.M.P.No.9887 of 2021 on the file of the learned VII Metropolitan Magistrate at George Town, the learned Judge stating that the stage of investigation is pending, had dismissed the case. Further, he would submit that the petitioner would undertake that he will not dispose the vehicle and that he would abide any stringent conditions that may be imposed on him and that the petitioner would be prepared to produce the vehicle before the respondent as and when required for the purpose of investigation or otherwise.

4. Mr.S.Sugendran, Learned Government Advocate(CrI.Side) appearing for the respondent would submit that the vehicle was used by the accused for transport of banned pan masala, Jardha scented tobacco s weighing 4000 Kgs and that the respondent has registered a case in Crime No. 1481 of 2021 and that the vehicle was seized. He would further submit that the investigation is pending.

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

6. Taking into consideration of the facts and circumstances of the case, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

7. In view of the above, the order dated 09.11.2021 passed in CrI.M.P.No.9887 of 2021 stands set aside and the Criminal Revision Petition stands allowed and 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 and trial are over;

(iii)The petitioner is directed to deposit a sum of Rs.1,50,000/- (Rupees One Lakh Fifty Thousand Only), as non-refundable deposit through RTGS/NEFT in favour of the Dean, Rajiv Gandhi Government General Hospital, Chennai, Tamil Nadu, State Bank of India,



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Park Town (Chennai), 68 Evening Bazaar Road, Chennai,
Branch Code : 1856, Branch Phone: 25354604, IFSC:
SBIN0001856, MICR: 600002037, Account No.10273425961,
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.

Sd/-
Assistant Registrar(CO)

// True Copy //

Sub Assistant Registrar

vri/shk

To

- 1.The learned VII Metropolitan Magistrate,
George Town.
- 2.The Inspector of Police,
B-1, North Beach Police Station,
Chennai.
Crime No.1481 of 2021.
- 3.The Public Prosecutor,
High Court, Madras.

Copy To

The Dean,
Rajiv Gandhi Government Hospital,
Chennai, Tamil Nadu

+1cc to M/s.R.Thamaraiselvan, Advocate Sr.No.67377

Cr1.R.C.No.977 of 2021

SRA(CO)
RVM(28/12/2021)