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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.12.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.1045 OF 2021

L.C.Prathap

... Petitioner/Petitioner

Versus

State Rep.by
Inspector of Police,
Mathur Police Station,
Krishnagiri District,
Crime No.309 of 2021.

...Respondent/Respondent

Criminal Revision Case filed under Section 397 and 401 Criminal Procedure Code, to call for the records on the file of the learned District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District in Crl.M.P.No.1656 of 2021 dated 23.11.2021 and set aside the order.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.R.Murthi
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case has been filed against the order dated 23.11.2021 passed in Crl.M.P.No.1656 of 2021 by the learned District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.309 of 2021 against the petitioner for the offence under Sections 4(1) (a) and 4(1-A) of Tamil Nadu Prohibition Act and seized the vehicle viz., Toyota Etios bearing Registration No.KA-03-AE-8208. The petitioner filed a petition under Sections 451 r/w 457 Cr.P.C seeking interim custody of the vehicle in Crl.M.P.No.1656 of



2021. The learned District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District by an order dated 23.11.2021 dismissed the petition, against which, the present Criminal Revision Case is filed before this Court.

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3.The case of the prosecution is that on 01.09.2021 at about 8.00 hrs, while the respondent/police was on patrol duty at Mathur, Thogarapalli X Road, they intercepted the vehicle bearing Registration No.KA-03-AE-8208. On suspicion, they searched the vehicle and found 96 packets of Old Tavern Whisky (each packet containing 180 ml) and hence, the case in Crime No.309 of 2021 was registered against the petitioner for offence under Section 4(1) (a) and 4(1-A) of Tamil Nadu Prohibition, Act, 1937 and arrested the accused and seized the vehicle.

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

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. 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 records, it is seen that the respondent police registered the case in Crime No.309 of 2021 against the petitioner for the offence under Sections 4(1) (a) and 4(1-A) of Tamil Nadu Prohibition, Act, 1937 and also seized the vehicle. Pending investigation, the petitioner filed a 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 District Munsif-cum- Judicial Magistrate, Pochampalli, Krishnagiri District to return the vehicle bearing Registration No.KA-03-AE-8208, to the petitioner, on the following conditions:-



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(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.50,000/- (Rupees Fifty 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 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 23.11.2021 passed in Crl.M.P.No.1656 of 2021 by the District Munsif-cum-Judicial Magistrate, Pochampalli, Krishnagiri District.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif-cum-Judicial Magistrate,
Pochampalli, Krishnagiri District.

2. The Inspector of Police,
Mathur Police Station,
Krishnagiri District.

3. The Public Prosecutor,
High Court, Madras.

+lcc to Mr.E.Kannadasan, Advocate, S.R.No.69950

Cr1.R.C.No.1045 of 2021

SR(CO)
RLP(07/01/2022)