



Crl.O.P.(MD)No.3070 of 2020

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 09.04.2021

PRONOUNCED ON: 19.04.2021

CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.O.P. (MD)No.3070 of 2020

S.Ponnusamy

... Petitioner

Vs.

State Rep. By
The Sub Inspector of Police,
PEW, Trichy City Police Station,
Trichy District.
(Cr.No.765 of 2018)

...Respondent

Prayer: Criminal Original Petition is filed under Section 482 Cr.P.C., to direct the respondent police to entrust the interim custody of the vehicle bearing No.TN-48-AH-5810 pending disposal of the confiscation proceedings pending before the Additional Deputy Commissioner, PEW, Trichy.

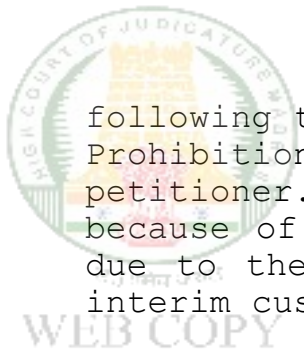
For Petitioner	:	Mr.R.Karunanidhi for Mr.K.Baalasundaram
For Respondent	:	Mr.K.Suyambulinga Bharathi Government Advocate (Crl.side)

O R D E R

This Criminal Original Petition has been filed to direct the respondent to entrust the vehicle bearing Registration No.TN-48-AH-5810 pending disposal of the confiscation proceedings initiated by the Additional Deputy Commissioner, PEW Wing, Trichy.

2.According to the petitioner, he is the owner of the above said vehicle, his vehicle and himself was falsely implicated in this case. The vehicle was taken on hire by other co-accused in this case and he transported the bags without knowing the contents. He was remanded to judicial custody and thereafter, released on bail by the learned Judicial Magistrate No.2, Trichy on 28.11.2018 in Cr.No.765 of 2018 on the file of the respondent police. The vehicle was seized. He filed a petition under Section 457 Cr.P.C before the lower Court in Cr.M.P.No.7109 of 2018 seeking custody and the same was ordered on 06.12.2018. The respondent police preferred a revision before the learned Sessions Judge, Trichirapalli in Crl.R.C.No.6 of 2019 and the same was allowed and confiscation proceedings initiated by the Additional Deputy Commissioner, PEW, Trichy. Challenging the same, the petitioner has filed a petition before the Sessions Court, Trichy in Crl.A.No.103 of 2019 and the same was allowed and the matter was remitted back to the Additional Deputy Commissioner, PEW, Trichy to pass appropriate orders after

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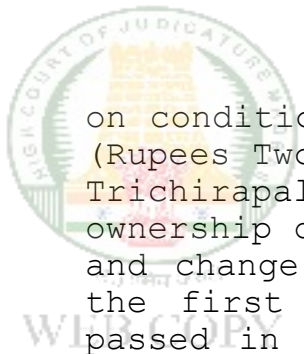
following the procedure mentioned under Section 14 (4) of Tamil Nadu Prohibition Act, 1937. After that no notice was served upon the petitioner. According to him, the vehicle is his only life source because of the loss of the vehicle, the entire family is suffering due to the loss of income and therefore, on that ground he seeks interim custody of the vehicle.

3.Heard both sides.

4.The learned Government Advocate (Crl.side) appearing for the respondent would submit that even though confiscation proceedings were initiated and ended against the petitioner, in view of the order passed by the Sessions Court in Crl.A.No.103 of 2019, dated 31.10.2019, the matter was remitted back to the Additional Deputy Commissioner, PEW, Trichy for re-consideration and fresh proceedings initiated and notice was issued to the petitioner. The petition was adjourned to various dates to know the present position of the confiscation proceedings. He would further submit that on perusal of the copy of show cause notice sent to the petitioner in Na.KA.No.62-2/ADC/PEW/TRC/18, dated 26.12.2018, it has been mentioned that subsequent order passed by the Sessions Court in the above said Criminal Appeal proceedings have been initiated and he was directed to show cause as to why the proceedings should not be initiated.

5.According to the petitioner, no notice was served upon him and no acknowledgment card was produced by the respondent. Whatever it may be the time limit for concluding the proceedings was fixed as three months from the date of receipt of a copy of order in the above said criminal appeal. The order is dated 31.10.2019 and now more than 1½ years lapsed. Even after lapse of several months no final order has been passed. Even in the show cause notice, time for enquiry and time for submission of representation is not mentioned and a vague notice has been sent. When the petitioner says that he is suffering from loss of income due to the pendency of the proceedings, it goes without any doubt that he is entitled for the interim custody. He also relied upon the judgment of this Court in the case of **G.Chandramohan Vs. The Inspector of Police, Prohibition Enforcement Wing, Kumbakonam** reported in **2005 (1) CTC 746**, wherein it has been observed that pendency of the confiscation proceedings is not a bar for considering the petition for interim custody. As mentioned earlier, the date of seizure of the vehicle was 27.11.2018 and for more than two years, the vehicle is in the custody of the police. Time and again it has been pointed out by various courts that keeping the vehicle either in the Court or in the police station is not desirable since it will undergo natural damage and irreparable loss.

6.I am of the considered view that a direction is to be given to the police for interim custody of the vehicle to the petitioner



on condition that he must execute a bond for a sum of Rs.2,00,000/- (Rupees Two lakhs only) before the learned Judicial Magistrate No.2, Trichirapalli along with two sureties for like sum by producing the ownership documents and file an affidavit that he will not alienate, and change the features of the vehicle and produce the vehicle on the first working day of every month till further orders to be passed in the confiscation proceedings. The respondent police is directed to take photograph of the vehicle at the cost of the petitioner and one copy must be kept in the CD file and another copy must be submitted to the concerned Court. The bond must be executed within 15 days from the date of receipt of a copy of this order.

7.With the above direction, this Criminal Original Petition stands disposed of.

Sd/-

Assistant Registrar (CSII)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Additional Deputy Commissioner,
PEW, Trichy.
- 2.The Sub Inspector of Police,
PEW, Trichy City Police Station,
Trichy District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

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NA (CO)
TR(12.05.2021) 3P 4C