



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 29.07.2021

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.228 of 2021

WEB COPY

Ramaiah

: Petitioner/Accused

Vs.

The Inspector of Police,
Prohibition Enforcement Wing,
Srivilliputhur,
Virudhunagar District.

(Crime No.882 of 2020)

: Respondent/Complainant

Prayer: Criminal Revision has been filed under section 397 r/w 401 of Criminal Procedure Code, to set aside the docket order passed by the Judicial Magistrate No.II, Srivilliputhur, dated 06.03.2021.

For Petitioner : Mr.G.Karuppasamy Pandian

For Respondent : Mr.P.Kottaichamy

Standing counsel for

State Government (Crl. Side)

ORDER

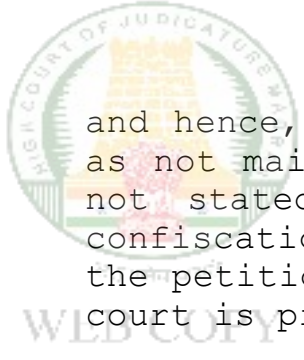
This Criminal Revision is directed against the docket order passed by the Judicial Magistrate No.II, Srivilliputhur, dated 06.03.2021.

2.The petitioner arrayed as accused in the case in Crime No.882 of 2020 on the file of the respondent police for the alleged offence under section 4(1)(a) of Tamil Nadu Prohibition Act, alleging that he was in possession of 24 liquor bottles without any permission or licence. The petitioner was arrested and his vehicle TN-84-C-1904 (Hero Duet) was seized along with 24 bottles of liquor. The petitioner filed a petition before the Judicial Magistrate No.II, Srivilliputhur, seeking interim custody of the vehicle. But the learned Judicial Magistrate returned the petition, on 06.03.2021 even without numbering by citing the reason that the petition is not maintainable, since confiscatory order has been passed with regard to the said vehicle.

3.Heard the learned counsel appearing on either side and perused the materials available on record.

4.The main contention of the petitioner is that without numbering the petition, the return order cannot be passed and the impugned order is predetermined and preconceived, since the court has no knowledge about the confiscation order and prays that the impugned order passed by the trial court is liable to be set aside.

5.On perusal of the impugned order, it is stated that already confiscation order was passed in respect of the vehicle



and hence, the petition seeking for return of vehicle was refused as not maintainable. It is to be noted that in this case, it was not stated how the trial court came to know the passing of confiscation order. Hence, the argument put forth on the side of the petitioner stating that the impugned order passed by the trial court is predetermined and preconceived is acceptable.

6. For the reasons stated above, this court is of the considered view that the impugned docket order passed by the trial court is liable to be set aside and the case is remitted back to the trial court.

7. In the result, this criminal revision is allowed. The impugned docket order, dated 06.03.2021 passed by the Judicial Magistrate No.II, Srivilliputhur is set aside. The case is remitted back to the trial court and the trial court is directed to take the petition on file and dispose of the same, purely on merits and in accordance with law, within a period of 4 weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

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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 Judicial Magistrate No.II,
Srivilliputhur, Virudhunagar District.
2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
3. The Inspector of Police,
Prohibition Enforcement Wing,
Srivilliputhur, Virudhunagar District.
4. The Section Officer, Criminal Record,
Madurai Bench of Madras High Court Madurai.

Judgment made in
Crl.R.C (MD) No.228 of 2021
29.07.2021