



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 16.06.2021

CORAM :

THE HON'BLE MR JUSTICE G.ILANGOVAN

W.P.(MD)No.9772 of 2021

S.Mahendra Raj

... Petitioner

Vs.

1.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

2.The Sub-Inspector of Police,
Devarkulam Police Station,
Crime No.115 of 2021
Tirunelveli District.

... Respondents

Prayer : Writ petition is filed under Article 226 of the Constitution of India for issuance of a Writ of Mandamus, to direct the 2nd respondent to release the petitioner's Piaggio Auto bearing Registration No.TN-33-AU-5072 from their custody in Crime No.115 of 2021, dated 21.04.2021 on the file of the second respondent.

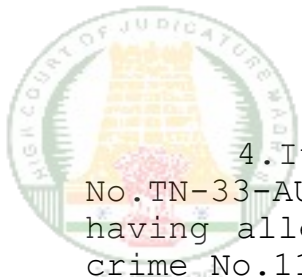
For Petitioner	: Mr.Kathirvelu Senior Counsel for Mr.K.Prabhu
For Respondents	: Mr.R.M.Anbunithi Additional Public Prosecutor

O R D E R

This Writ Petition is filed seeking a Writ of Mandamus directing the second respondent to release the petitioner's vehicle, viz., Piaggio Auto bearing Registration No.TN-33-AU-5072 from their custody in Crime No.115 of 2021, dated 21.04.2021 on the file of the second respondent.

2.The case of the petitioner is that his vehicle mentioned in the petition belongs to him by which, he is eking livelihood. On 21.04.2021, he came to know that the second respondent has seized his vehicle on the allegation that the same was used for the purpose of transporting tobacco products illegally in respect of which, a case in Crime No.115 of 2021 was registered for the alleged offence under Section 328 of IPC, Sections 6(b) and 24(1) of Cigarette and Other Tobacco Products Act 2003 and Section 77 of Juvenile Justice Act 2015. The vehicle is falsely implicated in the said occurrence, at no point of time, the vehicle was used for the purpose of illegally transporting the tobacco products. Since the vehicle is in the custody of the second respondent police, the present petition came to be filed.

3.Heard the learned counsel on either side.



4.It is not in dispute that the vehicle bearing Registration No.TN-33-AU-5072 has been seized by the second respondent police for having alleged transported tobacco products. In respect of which, crime No.115 of 2015 has been registered. Now the vehicle is in the custody of the second respondent. Seeking release of the vehicle, this petition has been filed. The only objection that can be raised is that the remedy available to the petitioner is to invoke Section 457 of Cr.P.C. before the concerned criminal Court, namely, the learned Judicial Magistrate No.III, Tirunelveli.

5.The learned counsel for the petitioner would submit that the seized vehicle is not produced before the Court. The remedy available to him is to invoke the jurisdiction of this Court under Section 226 of the Constitution of India. However, an alternative remedy is available to the petitioner under Section 457 of Cr.P.C.

6.In view of the above facts, the petitioner is directed to file proper petition before the learned Judicial Magistrate No.III, Tirunelveli immediately and on filing the petition, the learned Judicial Magistrate No.III, Tirunelveli is directed to consider the same on merits and pass orders within a week thereafter.

7.With this direction, the Writ Petition is disposed of. No costs.

Sd/-

Assistant Registrar (T&P)

// 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 Judicial Magistrate No.III, Tirunelveli.

2.The Superintendent of Police,
Tirunelveli District, Tirunelveli.

3.The Sub-Inspector of Police,
Devarkulam Police Station,
Tirunelveli District.



4. The Additional Public prosecutor,
Madurai Bench of Madras High Court,
Madurai

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