



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **07.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.11085 of 2021

and

W.P (MD)Nos.8697 & 8698 of 2021

WEB COPY

Selvaraj

... Petitioner

Vs.

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Prohibition Enforcement Office,
Karur District.

2.The Inspector of Police,
Prohibition Enforcement Wing Police Station,
Karur District.

... Respondents

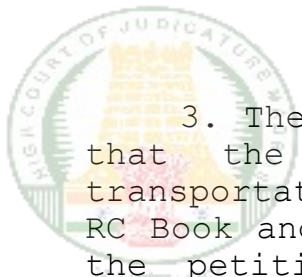
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, to call for the records of the impugned confiscating order passed by the 1st respondent vide his proceedings in C.No.71/ADSP/PEW/KRR/21, dated 11.06.2021 and quash the same as illegal and arbitrary.

For Petitioner : Mr.D.S.Haroon Rasheed
For Respondents : Mr.P.Thilak Kumar
Govt.Advocate

O R D E R

This Writ Petition has been filed praying for issuance of a Writ of Certiorari, to call for the records of the impugned confiscating order passed by the 1st respondent vide his proceedings in C.No.71/ADSP/PEW/KRR/21, dated 11.06.2021 and quash the same as illegal and arbitrary.

2. The case of the petitioner is that he is the owner of the Tipper Lorry, bearing Registration No.TN-30-R-3939. The driver of the vehicle, by name Kadarkarai, had taken the vehicle for supplying some book materials to some other states. On notice, the driver of the vehicle had illegally carried liquor bottles from other states, without the knowledge of the petitioner. On 29.05.2021, the 2nd respondent police, at Thavuttupalayam Check Post, Velayuthampalayam Jurisdictional Police, found that the driver of the petitioner's vehicle had illegally transported 99 bottles of liquor from Karnataka State. Therefore, a case in Crime No.652 of 2021 has been registered by the 2nd respondent, on 30.05.2021, for the offences under Section 4(1)(a) of TNP Act, against the driver of the petitioner's vehicle and the vehicle was also seized.



3. The learned counsel appearing for the petitioner would state that the petitioner has nothing to do with the alleged transportation of liquor bottles. All the documents including the RC Book and Insurance are in the name of the petitioner. Therefore, the petitioner sent a representation, dated 07.06.2021 to the respondents, to release his vehicle and filed a Writ Petition in W.P (MD)No.9982 of 2021 to consider his representation and to release his tipper lorry, bearing Registration No.TN-30-R-3939.

4. Pending the above Writ Petition, the vehicle was confiscated and therefore, the Writ Petition was dismissed with liberty to challenge the confiscation order, in the manner known to law. The present Writ Petition has been filed challenging the confiscation order.

5. The learned counsel for the petitioner would submit that the 1st respondent has violated the mandatory provisions of Section 14(4) of Tamil Nadu Prohibition Act, which contemplates a reasonable opportunity of hearing in the matter.

6. The learned Government Advocate appearing for the respondents fairly submits that Section 14(4) of the Tamil Nadu Prohibition Act, 1937 has not been complied with by the respondents.

7. This Court heard the submission made by the learned counsels appearing on either side and perused the materials available on record.

8. In view of the procedural violation, the impugned confiscation order passed by the 1st respondent, vide his proceedings in C.No.71/ADSP/PEW/KRR/21, dated 11.06.2021 stands quashed. The matter is remanded back to the authorities to pass fresh orders, by following the procedures, as contemplated under the Tamil Nadu Prohibition Act, before confiscation, in the manner known to law.

(*)9. Pending confiscation proceedings, the respondents are directed to release the said vehicle subject to the following conditions:-

"(i)The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172), without prejudice to his rights and contentions;

(ii)The petitioner is directed to produce all the documents pertaining to the ownership of the seized vehicle.

(iii)The petitioner is directed to file an affidavit of undertaking that he will cause production of the vehicle in question before the



competent/concerned respondent (as the case may be) as and when called for and further, he will not alienate the vehicle in question till the appropriate proceedings initiated are completed;

(iv) On compliance of the above conditions, the respondent concerned is directed to release the seized vehicle, viz., Tipper Lorry, bearing Registration No.TN-30-R-3939, to the petitioner.

10.The Writ Petition is ordered with the above observations. No costs. Consequently, connected Miscellaneous petitions are closed.

Sd/-

Assistant Registrar (CS-I)

**(*)Amended as per order of this Hon'ble Court
dated 22.07.2021**

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

Note:(i) 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

(*)To be Substituted in the order already despatched on 19/07/2021

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing,
Prohibition Enforcement Office, Karur District.

2.The Inspector of Police,
Prohibition Enforcement Wing Police Station,
Karur District.

+1 CC to M/s.SPL GP (SR-21697[F] dated 08/07/2021)

**W.P (MD)No.11085 of 2021
07.07.2021**

CN(16.07.2021) 3P 4C

RK(27.07.2021) 3P 4C