



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 12.07.2021

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.11586 of 2021

O.Manikandan

... Petitioner

Vs.

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

2.The Sub Inspector of Police,
Vengamedu Police Station,
Karur District.

... Respondents

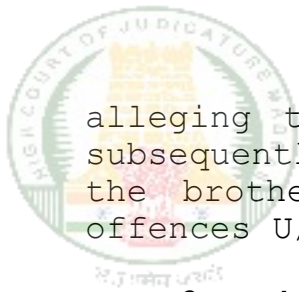
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to impugned confiscation order C.No.106/ADSP/PEW/KRR/21 dated 12.06.2021, on the file of the 1st respondent, quash the same as illegal and consequently, direct the respondents to release the vehicle namely Maruthi Omni, bearing Reg.No.TN-47-AT-7749 in favour of the petitioner, seized on 08.05.2021 pertaining to Crime No.193/2021, on the file of the 2nd respondent, to the petitioner.

For Petitioner	: Mr.K.Balasubramani
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 pertaining to impugned confiscation order in C.No.106/ADSP/PEW/KRR/21, dated 12.06.2021, passed by the 1st respondent, quash the same as illegal and consequently, direct the respondents to release the petitioner's vehicle viz., Maruthi Omni, bearing Reg.No.TN-47-AT-7749, seized on 08.05.2021, pertaining to Crime No.193/2021, on the file of the 2nd respondent, to the petitioner.

2. The case of the petitioner is that he is the owner of the vehicle viz., Maruthi Omni, bearing Reg.No.TN-47-AT-7749 and the Registration Certificate is in the name of the petitioner. The petitioner purchased the said vehicle in the year 2017. On 08.05.2021, his brother Malayalan took the vehicle without the knowledge of the petitioner and the 2nd respondent seized the vehicle



alleging that the vehicle was used to transport the liquors and subsequently, a case in Crime No.193 of 2021 was registered against the brother of the petitioner viz., Malayalan, for the alleged offences U/s.4(1) (a) of the Tamil Nadu Prohibition Act.

3. The learned counsel appearing for the petitioner would submit that on 08.05.2021 onwards, the petitioner's vehicle was stationed in the 2nd respondent Police Station and not produced before the concerned Magistrate. On 05.06.2021, the 1st respondent has issued a show cause notice to the petitioner as if why confiscation proceedings ought not to be initiated to the petitioner's vehicle and directed him to submit his objections within 7 days. On 11.06.2021, the petitioner submitted his objections stating that the petitioner and his vehicle was not involved in the alleged occurrence and sought to return his vehicle. The 1st respondent, without providing an opportunity of personal hearing, has passed the impugned confiscation order vide proceedings in C.No.106/ADSP/PEW/KRR/21, dated 12.06.2021.

4. The learned counsel for the petitioner would contend 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.

5. 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.

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

7. In view of the clear procedural violation, the impugned confiscation order passed by the 1st respondent, vide his proceedings in C.No.106/ADSP/PEW/KRR/21, dated 12.06.2021, 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.

(*)8. 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., Maruthi Omni, bearing Reg.No.TN-47-AT-7749, to the petitioner.

(*)9.The Writ Petition is ordered with the above observations.
No costs.

Sd/-

Assistant Registrar (CS-II)

(*)Corrected as per the order of this Court dated 19.07.2021

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

MPK

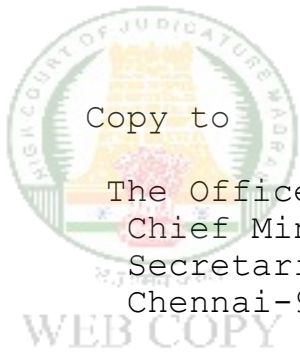
Note:In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

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

2.The Sub Inspector of Police,
Vengamedu Police Station,
Karur District.

<https://hcservices.courtsgov.in/hcservices>



Copy to

The Officer In-Charge,
Chief Minister Public Relief Fund,
Secretariat
Chennai-9.

+1CC to the Special Government Pleader, SR.No.22510 dated 14.07.2021

W.P (MD) No.11586 of 2021
12.07.2021

LS (CO)

LR (04.08.2021) 4P 5C