



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **19.07.2021**

CORAM

WEB COPY

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P(MD)No.12123 of 2021
and
W.P(MD)No.9534 of 2021

Jeyaram Shankar

... Petitioner

Vs.

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing (PEW),
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District
(In Crime No.334 of 2019)

... Respondents

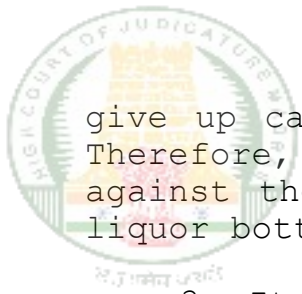
PRAYER: Petition filed under Article 226 of the Constitution of India, praying for the issuance of a Writ of Certiorari, calling for the records of the impugned order of the 1st respondent vide his proceedings in Na.Ka.No.44-5/Ka.Thu.Ka/Ma.V.A.P/V.Ma/2019, dated 24.04.2021, quash the same as illegal and arbitrary.

For Petitioner : Mr.A.Balaji
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 quash the impugned order of the 1st respondent in Na.Ka.No.44-5/Ka.Thu.Ka/Ma.V.A.P/V.Ma/2019, dated 24.04.2021, as illegal and arbitrary.

2. The case of the petitioner is that he is the owner of the vehicle viz., "Hyundai Xcent", bearing Registration No.TN-67-BY-1920. The petitioner had actively participated in the Local Body Election-2019, by canvassing his village people to vote in favour of one of the candidates. The rival candidate, who contested on behalf of the ruling party in the said election, had given a pressure to



give up canvassing, but the petitioner did not heed to his words. Therefore, he influenced the 2nd respondent to put up a false case against the petitioner, as if the petitioner was in possession of liquor bottles.

3. It is the further case of the petitioner that in order to prevent the petitioner from canvassing process, the FIR was registered on 24.12.2019, in Crime No.334 of 2019, for the offence under Section 279 of IPC., and Section 4(1)(aa), 14-A of the Tamil Nadu Prohibition Act, 1937. The seized vehicle of the petitioner was forwarded to the 1st respondent, for confiscation proceedings, under the Tamil Nadu Prohibition Act, 1937. Hence, the petitioner filed a Writ Petition in W.P(MD)No.4815 of 2020 to release his vehicle. Before final disposal of the said Writ Petition, the 1st respondent has sought for an explanation vide his Memo, dated 07.03.2020. Accordingly, the petitioner had given a detailed explanation for the said Memo, on 11.03.2020. In the meanwhile, this Court directed the 1st respondent to hand over the interim custody of his vehicle vide the order in W.P(MD)No.4815 of 2020, dated 19.08.2020. But, the 1st respondent, passed the impugned order, dated 24.04.2021, confiscating the vehicle of the petitioner, without giving an opportunity of personal hearing to the petitioner.

4. 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. 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. The present Writ Petition has been filed challenging the confiscation order.

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 procedural violation, the impugned confiscation order passed by the 1st respondent, vide his proceedings in Na.Ka.No.44-5/Ka.Thu.Ka/Ma.V.A.P/V.Ma/2019, dated 24.04.2021 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. The Writ Petition is ordered with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (T&P)

(*) Deleted vide order dated 30.07.2021 made in WP(MD).No.12123 of 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 the order already despatched on 09.07.2021

1.The Additional Superintendent of Police,
Prohibition Enforcement Wing (PEW),
Virudhunagar District,
Virudhunagar.

2.The Inspector of Police,
Thiruchuli Police Station,
Thiruchuli,
Virudhunagar District

Copy to;

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

+1 CC to M/s.GP (SR-23290[F] dated 20/07/2021)

RKN (28.07.2021) 3P 5C

KB (10.08.2021) 3P 5C