



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **20.07.2021**

CORAM

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P (MD)No.12239 of 2021

and

W.P (MD)No.9633 of 2021

WEB COPY

P.Sivadevan

... Petitioner

Vs.

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

2.The Inspector of Police,
Prohibition Enforcement Wing,
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 the impugned confiscation order C.No.101/ADSP/PEW/KRR/21, dated 12.07.2021 on the file of the first respondent, quash the same as illegal and consequently, direct the respondents to release the vehicle namely TATA ACE bearing Reg.No.TN-33-AM-2775 in favour of the petitioner, which was seized on 18.05.2021 pertaining to Crime No.602 of 2021 on the file of the second respondent to the petitioner.

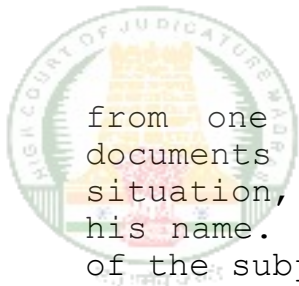
For Petitioner	: Mr.K.Balasubramani
For Respondents	: Mr.P.Thilak Kumar
	Govt. Advocate

O R D E R

This Writ Petition has been filed by the petitioner praying for issuance of a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned confiscation order in C.No.101/ADSP/PEW/KRR/21, dated 12.07.2021 on the file of the first respondent, quash the same as illegal and consequently, direct the respondents to release the vehicle namely TATA ACE bearing Reg.No.TN-33-AM-2775, which was seized on 18.05.2021 pertaining to Crime No.602 of 2021 on the file of the second respondent, to the petitioner.

2. The case of the petitioner is that he had purchased the vehicle viz., "TATA ACE", bearing Registration No.TN-33-AM-2775

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from one A.Krishna Samy and he had produced all the original documents to the petitioner, but, due to the Covid-19 pandemic situation, the petitioner was not able to transfer the vehicle in his name. However, as on date, the petitioner is the lawful owner of the subject vehicle.

WEB COPY

3. It is the further case of the petitioner that on 18.05.2021, his vehicle was seized by the third respondent police alleging that 27 bottles of liquor were found in the vehicle and an FIR was registered on 18.05.2021, in Crime No.602 of 2021 for the offence under Section 4(1)(A) of the Tamil Nadu Prohibition Act. 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.11845 of 2021, to release his vehicle. In the meantime, the first respondent has passed the impugned confiscation order dated 12.07.2021 and therefore, the said writ petition was dismissed as infructuous.

4. The grievance of the petitioner is that the confiscation order was passed by the first respondent without issuing any notice to the petitioner or conducting any enquiry and hence, the petitioner has come out with the present writ petition.

5. The learned counsel appearing 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.

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.101/ADSP/PEW/KRR/21, dated 12.07.2021, 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:-

<https://hcservices.ecourts.gov.in/hcservices/> (1) 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, IFSCCode: 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., "TATA ACE", bearing Registration No.TN-33-AM-2775, to the petitioner.

10. The Writ Petition is ordered with the above observations. No costs. Consequently, the connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

PM

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

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

2.The Inspector of Police,
Prohibition Enforcement Wing,

<https://hcservices.ecourts.gov.in/hcservices>



Copy to

The Officer in Charge,
Government of Tamil Nadu,
CMPRF,
Secretariat,
Chennai-9.

+1 CC to M/s.GP (SR-23494[F] dated
22/07/2021)

**W.P (MD) No.12239 of 2021
20.07.2021**

MGJ(30.07.2021) 4P 5C