



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED : 21.01.2021

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THE HONOURABLE MR.JUSTICE **G.R.SWAMINATHAN**

WEB COPY

W.P. (MD)No.16398 of 2020
and
W.M.P. (MD)No.13721 of 2020

D.Rajapandi

: Petitioner

Vs.

1.The Additional Superintendent of Police,
Headquarters (Incharge),
Enforcement of Prohibition Wing,
Ramanathapuram District.

2.The Inspector of Police,
Rameshwaram Town Police Station,
Rameshwaram.

: Respondents

PRAYER :- Petition filed under Article 226 of the Constitution of India seeking a Writ of Certiorarified Mandamus, to call for the records of the impugned Notice for Confiscation vide Na.Ka.No.58/Parimuthal/Ku.Kaa.Ka/Rama/2020, dated 13.07.2020 on the file of the respondent No.1 and quash the same as illegal and consequently, to direct the respondents to release the petitioner's two wheeler "Yamaha" bearing registration No.TN65AL1046 by considering the petitioner's representation, dated 22.09.2020 within the time stipulated by this Court.

For Petitioner

: Mr.V.Manikandan

For Respondents

: Mr.M.Rajarajan

Additional Government Pleader

ORDER

Heard the learned Counsel for the petitioner and the learned Additional Government Pleader appearing for the respondents.

2.The petitioner is the owner of the petition mentioned vehicle. It is a two wheeler. The two wheeler was put to use by one Balamurugan for illegal transportation of liquor bottles. Hence, the respondent police have registered a case in Cr.No.251 of 2020 for the offences under the provisions of Tamil Nadu Prohibition Act. The confiscation proceedings were initiated. Though notice was issued to the accused, the petitioner was not put to notice. Hence, challenging the confiscation proceedings, the present Writ Petition is filed.



3.The impugned proceedings cannot be interfered with and I am of the view that before passing any final orders, the first respondent herein must hear the petitioner also.

4.The learned counsel for the petitioner states that the vehicle has not been involved in any previous case of the same nature. He also submitted that the petitioner is also not having any previous case. The learned Counsel for petitioner states that till date the vehicle in question has not been produced before the jurisdictional Court.

5.It has been held time and again that keeping the vehicle in the custody of the respondents is not going to serve any purpose. On the other hand, it will contribute to loss of value. Even though the criminal case has been registered, the vehicle in question is yet to be produced before the jurisdictional Court. The case is still under investigation. Therefore, the Writ Court will always have the power to direct release of vehicle.

6.The Hon'ble Supreme Court in the decision reported in (2002) 10 SCC 283 (Sunderbhai Ambalal Desai and Others V. State of Gujarat) has held as follows:-

"17.In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

7.Recording the submission made by the learned counsel for the petitioner on instructions, I direct release of the petition mentioned vehicle subject to the following conditions :

- a) The petitioner is directed to pay a sum of Rs.1,000/- (Rupees One Thousand only) in favour of the Superintendent, Government Observation Home, No.164, Kamarajar Salai, Madurai - 625 009, in Bank Account Number : 161401000024282, IFSC Code : IOBA0001614, Indian Overseas Bank, Teppakulam. It will be a non refundable payment and without prejudice to the confiscation proceeding.
- b) The Superintendent of the Observation Home is directed to spend the said amount for the welfare of the institution or that of its inmates or towards the rehabilitation of its former inmates. The Superintendent shall submit a report to the Registrar (Administration), Madurai Bench of the Madras High



Court, Madurai indicating the exact deployment of funds. The bills and other relevant materials will be enclosed along with the report. The Chairman, Juvenile Justice Board, Madurai will oversee the process and ensure the end-use.

- c) The petitioner shall not alienate or encumber the vehicle in question till the proceedings are completed.
- d) The petitioner shall produce all the documents pertaining to the ownership of the seized vehicle. If the petitioner concerned is an agreement holder and the R.C book is with the financier, he or she can be permitted to produce the photocopies of the relevant documents and if the vehicle is a new one, sales invoice can be produced.
- e) As and when the respondents call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and shall cooperate with the enquiry to be conducted by the respondents.

7. After completion of the aforesaid formalities, the respondents shall release the petition mentioned vehicle forthwith without any delay. If the undertaking given by the petitioner is breached, the petitioner will not be entitled to interim release of the vehicle in future and the order passed by this Court will stand recalled and the vehicle in question will be taken back to custody and it will be released only after getting orders from this Court on such terms as this Court may deem it fit to impose.

8. The Writ Petition is allowed accordingly. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (RTI Act)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

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To

1. The Additional Superintendent of Police,
Headquarters (Incharge),
Enforcement of Prohibition Wing,
Ramanathapuram District.



2.The Inspector of Police,
Rameshwaram Town Police Station,
Rameshwaram.

Copy to:

1.The Superintendent, Government Observation Home,
No.164, Kamarajar Salai, Madurai - 625 009.

2.The Registrar (Administration),
Madurai Bench of the Madras High Court, Madurai.

3.The Chairman, Juvenile Justice Board, Madurai.

+1 CC to M/s.GP (SR-1867[F] dated 22/01/2021)

W.P. (MD) No.16398 of 2020
21.01.2021

(MJ) CO

AP(04/02/2021) 4P 7C