



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 04.10.2021

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.R.C.(MD).No.710 of 2021

M.Parthiban

... Petitioner

Vs.

The Inspector of Police,
Prohibition Enforcement Wing(PEW),
Thuriayur,
Trichy (District).

... Respondent

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C, to call for the records of the impugned order dated 09.08.2021 in CrI.M.P.No.1634 of 2021 passed by the learned Judicial Magistrate, Manaparai and set aside the same and return the vehicle to the petitioner by allowing this revision.

For Petitioner	: Mr.R.Alagia Nambi
For Respondents	: Mr.M.Muthumanikkam Government Advocate

O R D E R

This Criminal Revision Case has been filed to call for the records of the impugned order dated 09.08.2021 passed in CrI.M.P.No.1634 of 2021 by the learned Judicial Magistrate, Manaparai, set aside the same and return the vehicle to the petitioner.

2. On 30.04.2021, while the respondent/Police Team was doing vehicle check-up at Mettukadai to Thathakavandampatti Road, the accused namely Parthiban, came there in a Hero Splendor Plus bearing Reg.No.TN-45-CZ-1744 and during check-up, in the said vehicle, it was found that without having any licence and permission, the accused had illegally transported 180 numbers of ML Black Pearl-30 bottles. Thereafter, the respondent arrested the accused, recorded his confession, seized the brandy bottles along with two wheeler. A case was registered in Crime No.436 of 2021, under Section 4(1)(a) of TNP Act against the accused on the same day.

3. During the course of investigation, the petitioner, who is the owner of the seized Hero Splendor Plus bearing Reg.No.TN-45-CZ-1744 filed a Petition before the Judicial Magistrate Court, Manaparai, CrI.M.P.No.1634 of 2021 for return of the vehicle. The



said petition was dismissed on 09.08.2021, as against which, the present Criminal Revision Petition is filed.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the offending vehicle. Further, he is not an accused and a false case has been registered against him under Section 4(1)(a) of TNP Act. He would further submit that pending the proceedings, the Vehicle may be returned, otherwise the value of the vehicle would get diminished and the utility value will get affected. Thus he prays for return of vehicle.

5. The learned Government Advocate appearing for the respondent Police has stated that the offending vehicle was seized from the petitioner and the case was registered in Crime No.436 of 2021 for the offence, under the Prohibition Act. He further stated that the confiscation proceedings are still pending.

6. Admittedly, the petitioner is the owner of the property and he has been arrayed as accused in this case. No doubt, exposing the vehicle to sun and rain, without using it, would certainly lose its value. This Court is also of the opinion that pendency of the confiscation proceedings is not a bar for return of vehicle. Therefore, the Revision Petition is allowed subject the following conditions:-

(1) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties to the satisfaction of the Judicial Magistrate Court, Manaparai.

2) The Original R.C. Book shall be produced before the Trial Court.

3) The petitioner shall file an affidavit of undertaking that he will produce the vehicle before the Court or before the investigating Authorities whenever the same is required.

4) The petitioner shall not dispose of the vehicle.

5) The petitioner shall make himself available before the Authority in the confiscation proceedings and investigation.

8. With the above conditions, the Criminal Revision Petition stands allowed.

Sd/-

Assistant Registrar (CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



1. The Judicial Magistrate, Manaparai.

2. The Inspector of Police,
Prohibition Enforcement Wing(PEW),
Thuriayur,
Trichy (District).

3. The Additional Public prosecutor,
Madurai Bench of Madras High Court, Madurai

+1 CC to M/s.R.ALAGIA NAMBI, Advocate (SR-31133[F] dated 05/10/2021)

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.

CRL.R.C. (MD) .No.710 of 2021
04.10.2021

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