



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 08.10.2021

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.(MD) No. 709 of 2021

WEB COPY

Banumathi

... Revision Petitioner/Petitioner

Vs.

State through
The Inspector of Police,
Nagamalai Pudukottai Police Station,
in Crime No.355 of 2021,
Madurai,
Madurai District.

... Respondents/Complainant

PRAYER: The Criminal Revision Petition is filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the entire records relating to the order passed in Cr.M.P.No.2483 of 2021 by the learned Judicial Magistrate No.VI, Madurai, dated 13.09.2021, set aside the same and allow this petition.

For Petitioner : Mr.Niranjan S. Kumar

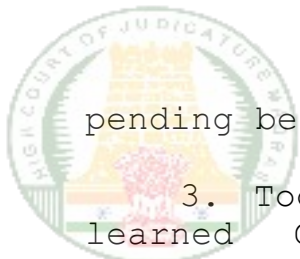
For Respondent : Mr.M.Muthumanikkam

Government Advocate (Crl.side)

ORDER

The petitioner is the owner of the Ashok Leyland Lorry bearing Registration No.TN-58-BA-5305. When at the time the respondent police registered a case in Crime No.355 of 2021, the said vehicle referred to above has been recovered and as of now the same is in the custody of the respondent police. In the said circumstances, the petitioner herein, filed an application before the learned Judicial Magistrate No.VI, Madurai, under Sections 457 and 451 of Cr.P.C., wherein, he prayed to hand over the said lorry for interim custody. The learned Judicial Magistrate No.VI, Madurai, by order dated 13.09.2021, dismissed the application filed by the petitioner by stating the reason that already confiscation proceeding was initiated.

2. The learned counsel appearing for the petitioner would submit that the petitioner is not an accused in Cr.No.355 of 2021. Further, the alleged occurrence had happened without the knowledge of the petitioner. Hence, the petitioner is entitled the relief of interim custody of the vehicle. He would further submit that in respect to the confiscation proceeding initiated, the petitioner



pending before this Court.

3. Today, when this petition is came up for hearing, the learned Government Advocate (Crl.side) appearing for the respondent police appeared before this Court and made a submission that in respect of the petition mentioned vehicle, already confiscation proceedings are completed and therefore, this revision petition is not maintainable.

4. I have considered the rival submissions made by the learned counsels appearing on either side.

5. The facts and circumstances of the case reveals the fact that the confiscation proceedings are completed. In the said circumstances, on seeing the Tamil Nadu Prohibition Act, 1937, there was a provision available under Section 14(5) of the Tamil Nadu Prohibition Act to file an appeal against the order passed under Section 14(4) of the Tamil Nadu Prohibition Act. Hence the only option available to the petitioner is that he has to file an appeal before the Sessions Court under Section 14(5) of TNP Act. When the petitioner is having an appeal remedy before the Sessions Court, without exhausting the appeal remedy has filed the revision before this Court, which is not maintainable.

6. In view of the above, this Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (AD I)

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/ /2021

Sub Assistant Registrar(CS)

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To:-

1. The Judicial Magistrate No.VI, Madurai,

2. The Inspector of Police,
Nagamalai Pudukottai Police Station,
Madurai, Madurai District.

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

+1 CC to M/s.NIRANJAN S KUMAR, Advocate (SR-31792[F] dated 08/10/2021)

Crl.R.C. (MD)No.709 of 2021

08.10.2021