



**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

**DATED: 27.10.2021**

**CORAM**

**THE HON'BLE MR.JUSTICE R.SURESH KUMAR**

**W.P. (MD)No.18961 of 2021**

**and**

**W.M.P. (MD)No.15772 of 2021**

WEB COPY

A.Saravanan

... Petitioner

Vs.

1.The Deputy Superintendent of Police,  
Prohibition and Excise Department,  
Thoothukudi District.

2.The Inspector of Police,  
Naserath Police Station,  
Thoothukudi District.

... Respondents

**Prayer:** Writ Petition is filed under Article 226 of Constitution of India, to issue a Writ of Certiorarified Mandamus, calling for the records pertaining to the Impugned order passed by the first respondent in his proceedings in Na.Ka.No.11/Thu.Kaa.Ka/MA.V.A.,Pirivu/Thoodi/2021 dated 15.09.2021 and quash the same as illegal and consequently direct the first respondent to release the petitioner's Maruthi Alto 800 car TN 69 AT 0571 seized by the second respondent on 16.06.2021.

|                 |                                                      |
|-----------------|------------------------------------------------------|
| For Petitioner  | : Ms.Porkodi Karnan<br>for M/s.Polax Legal Solutions |
| For Respondents | : Mr.D.Ghandiraj<br>Government Advocate              |

**ORDER**

Prayer sought for herein is for a Writ of Certiorarified Mandamus, calling for the records pertaining to the impugned order passed by the first respondent in his proceedings in Na.Ka.No.11/Thu.Kaa.Ka/MA.V.A.,Pirivu/Thoodi/2021, dated 15.09.2021 and quash the same as illegal, and consequently direct the first respondent to release the petitioner's Maruthi Alto 800 Car, bearing Registration No.TN 69 AT 0571 seized by the second respondent on 16.06.2021.

2.The respondent police has registered a case against the petitioner in Crime No.112 of 2021 on the file of the second respondent for the alleged offences punishable under Sections 4(1) (a) and 14(A) of Tamil Nadu Prohibition Act 1937, (in short 'an Act') on 06.06.2021.



3.The said case was registered on the allegation that the petitioner and one Muthu had carried 22 bottles of IMFL, each containing 180 ml., illegally in the vehicle belongs to the petitioner, that is, Maruthi Alto 800 with Registration No.TN 69 AT 0571.

WEB COPY

4.Pursuant to the registration of the case and based on the report given by the second respondent, the first respondent, being the confiscating Authority, has issued a show cause notice, dated 15.09.2021, explaining the same and seek show cause from the petitioner, as to why the vehicle in question belongs to the petitioner shall not be confiscated for the Government.

5.Challenging the said notice for confiscation, dated 15.09.2021, the present writ petition has been filed with the aforesaid prayer.

6.Heard Ms.Porkodi Karnan, learned counsel appearing for the petitioner, who pointed out that, as per the Government Order, which is in vogue, an individual can carry upto 4.5 litres of IMFL for personal consumption.

7.Here in the case in hand, it is the case of the respondents that the petitioner and another carried 22 bottles of IMFL, each containing 180 ml., therefore, totally 3.960 litres of IMFL were carried in the vehicle in question, therefore, even for the personal consumption of one person, since it is permitted up to 4.5 litres and the total quantity of IMFL carried by the petitioner and another is only 3.960 litres, it is not an offence or there has been no violation on the part of the petitioner and another in carrying or transporting the said liquor bottles. Therefore, the provision under Sections 4(1)(a) and 14(A) of the Act, do not attract, hence, the mere basis for issuing the impugned show cause notice towards the confiscation of the vehicle in question belongs to the petitioner does not arise. Hence, the learned counsel appearing for the petitioner in this regard seeks indulgence of this Court.

8.In order to verify the afore-stated factual aspects, Mr.D.Ghandiraj, learned Government Advocate had taken time and today, when this case is taken up for hearing, the learned Government Advocate, on instructions, would contend that, no doubt, the petitioner and another carried only 3.960 litres of IMFL and as per the amended Government Order in G.O.Ms.No.14, H.P&EVI Department, dated 09.06.2017, in Table No.1, the quantity for personal consumption of IMFL is fixed at 4.5 litres. Therefore, according to the said fixation, if at all the petitioner and another carried 3.960 litres, which has been intercepted and seized by the respondents and pursuant to which, they initiated action to confiscate the vehicle in question belongs to the petitioner on the



ground that the petitioner has violated Sections 4(1)(a) and 14(A) of the Act, the said action may not be persuaded further in view of the permitted limit of transportation of IMFL liquor for personal consumption as quantified in the Government Order referred to above.

9. I have heard the learned counsel appearing for both sides and have considered the materials placed before this Court.

10. As has been rightly pointed out by the learned counsel appearing for the petitioner, which cannot be disputed by the learned Government Advocate appearing for the respondents, the permitted limit of IMFL to be carried by an individual for individual consumption is 4.5 litres. However, admittedly, the case of the respondents that the petitioner and another carried 22 bottles of IMFL, each containing 180 ml., which comes only 3.960 litres. Hence, it is within the permissible limit for individual consumption. Therefore, it cannot be stated that the petitioner's vehicle, which is sought to be confiscated through the impugned notice, has not involved in any such crime as projected by the respondents. Therefore, this Court is of the considered view that the impugned order cannot be proceeded further. Hence, it is liable to be interfered with.

11. In that view of the matter, the impugned notice is quashed and accordingly, this writ petition is allowed. The petitioner's vehicle in Registration No. TN 69 AT 0571, shall be immediately released to the petitioner on production of a copy of this order.

12. With these directions the writ petition is disposed of accordingly. However, there shall be no order as to costs. Consequently, connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (Per. Admn)

// True Copy //

/ /2021

Sub Assistant Registrar (CS)

PJL

**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.



To

1.The Deputy Superintendent of Police,  
Prohibition and Excise Department,  
Thoothukudi District.

2.The Inspector of Police,  
Naserath Police Station,  
Thoothukudi District.

+1 CC to M/s.POLAX LEGAL SOLUTIONS, Advocate (SR-32941[F]  
dated 27/10/2021)

+1 CC to M/s.SPL.GP (SR-33035[F] dated 28/10/2021)

**W.P. (MD) No.18961 of 2021**

**and**

**W.M.P. (MD) No.15772 of 2021**

**27.10.2021**

NSN (CO)

GC/JGB(29.10.2021) 4P 5C