



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 15.11.2021

CORAM:

THE HONOURABLE MRS.JUSTICE R.THARANI
Crl.R.C.(MD)No.815 of 2021

D.Rahul

... Petitioner/Petitioner

vs.

State rep. by
The Inspector of Police,
Tiruchendur Police Station,
Thoothukudi District.
(Crime No.195 of 2021)

... Respondent/Respondent

PRAYER : Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to order passed in Crl.M.P.No.842 of 2021 on the file of the learned Judicial Magistrate, Tiruchendur, dated 27.10.2021 and set aside the same by allowing the revision petition.

For Petitioner : Mr.R.Pon Karthikeyan

For Respondent : Ms.Asha
Government Advocate

O R D E R

This Criminal Revision has been filed to set aside the order passed in Crl.M.P.No.842 of 2021 on the file of the Judicial Magistrate, Tiruchendur, dated 27.10.2021.

2. A two wheeler viz., YAMAHA Cygnus Ray ZR-M Cycle, bearing Registration No.TN-92-F-1634 was seized by the respondent police in Crime No.195 of 2021 for the offences under Sections 4(1)(a), 4(1)(i) and 14A of Tamilnadu Prohibition Act. The petitioner claiming himself as the owner of the vehicle filed a petition in Crl.M.P.No.842 of 2021 before the Judicial Magistrate, Tiruchendur, for temporary return of the vehicle. That petition was dismissed by the trial Court. Against the same, the petitioner has preferred this Revision.

3. On the side of the petitioner, it is stated that the petition filed by the petitioner was dismissed only on the ground that confiscation proceedings is pending. The pendency of the confiscation proceedings is not a bar for return of the vehicle. To



substantiate this contention the learned counsel for the petitioner relied upon a judgment of this Court in **Crl.R.C.No.501 of 2011 (Sakthidevi vs. State) dated 07.04.2011** and another judgment of this Court reported in **2016 (2) MLJ (Crl) 320 (Vennila vs. State)**.

4. On the side of the prosecution, it is stated that the motor vehicle was used for transporting 70 numbers of Day Night Brandy (180 ml). The petitioner is a witness in the case. Confiscation proceedings are pending. If the vehicle is returned to the petitioner, there is a possibility of the vehicle to be used for commission of the similar offence and prayed the petition to be dismissed.

5. The petitioner is not an accused in the case. If the vehicle is kept in the open place, the value of the vehicle will be deteriorated. In the above circumstances, this Court is inclined to return the vehicle for interim custody, subject to the confiscation proceedings on the following conditions:-

(i) The petitioner shall deposit the original Registration Certificate of the vehicle before the Judicial Magistrate, Tiruchendur;

(ii) The petitioner shall execute a bond for a sum of **Rs.10,000/- (Rupees Ten Thousand only)** with two sureties before the Judicial Magistrate, Tiruchendur, within a period of four weeks from the date of receipt of a copy of this order;

(iii) The petitioner shall not alienate and shall not make any alterations in the vehicle;

(iv) The petitioner shall produce the vehicle before the Court and before the respondent as and when required by the Court and by the respondent and this order is subject to the final order to be passed in the confiscation proceedings.

6. This Criminal Revision Petition is allowed.

Sd/-

Assistant Registrar (CS I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

csm/mga

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.

<https://hccservices.mysirsa.gov.in/hccservices/>



To

1. The Judicial Magistrate,
Tiruchendur.

WEB COPY

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

Copy to:

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

+1 CC to M/s.R. PONKARTHIKEYAN, Advocate (SR-34545[F] dated
16/11/2021)

Crl.R.C. (MD) No. 815 of 2021

15.11.2021

MGJ/PM(25.11.2021) 3P 5C