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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.03.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.295 of 2022

Ayyanar

... Petitioner

Vs.

State: rep. by
The Inspector of Police,
Mathur Police Station,
Krishnagiri District
(crime No.333 of 2021)

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 & 401 of Cr.P.C. to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District in Crl.MP.No.5 of 2022 dated 11.01.2022 dismissing the petition to return the vehicle of Hero Splendor Plus bearing Registration No.TN 32 BA 7299 to the petitioner.

For Petitioner : Mr.E.Kannadasan

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

This revision has been filed against the dismissal of the petition in Crl.MP.No.5 of 2022 dated 11.01.2022 passed by the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District seeking for return of the vehicle of Hero Splendor Plus bearing Registration No.TN 32 BA 7299.

2. The brief facts of the case :-

The respondent has registered a case in Cr.No.333 of 2021 for the offence under Section 4(1)(a), 4(1-A) of TNP Act and had seized the vehicle of Hero Splendor Plus bearing Registration No.TN 32 BA 7299 for having used the same for illegal transportation of 180 packets of 180 ml Karnataka State Haywards



Brandy, 90 packets of 90 ml Haywards. The petitioner who is the owner of the vehicle and not arrayed as an accused, had filed CrI.MP.No.5 of 2022 under Sections 457 and 451 Cr.PC seeking for return of the vehicle. The learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District finding that the vehicle is not produced before the court, had dismissed the petition for return of the vehicle by order dated 11.01.2022, against which the present revision has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is not an accused in this case. The petitioner's co-brother, who is arrayed as accused, had taken the vehicle for the purpose of going to hospital, but misused the same by transporting said contraband and thereby, the petitioner's vehicle has been seized by the respondent. He would submit that the petitioner appeared for enquiry and the respondent finding that the petitioner has nothing to do with the offence had not implicated the petitioner in the crime. The petitioner is put to severe hardship and loss due to the detention of the vehicle. He would submit that the petitioner is prepared to contest the confiscation proceedings, if any, by giving a reply. He would submit that the vehicle is now kept in the open place, exposed to the vagaries of weather and thereby the value of the vehicle is getting deteriorated day by day. He would submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him and that he is prepared to produce the vehicle as and when required by the respondent/police or confiscating authority.

4. The learned Government Advocate (CrI. side) appearing for the respondent police would submit that the vehicle of Hero Splendor Plus bearing Registration No.TN 32 BA 7299 was seized by the respondent in connection with the Cr.No.333 of 2021 for having used in the illegal transportation of brandy. He would submit that the petitioner is not an accused in this case. He would further submit that so far the respondent has not initiated confiscation proceedings and therefore, he is not having any objection to return the vehicle.

5. Heard the counsel appearing on either side and perused the materials available on record.

6. The petitioner is the owner of Hero Splendor Plus bearing Registration No.TN 32 BA 7299. The petitioner is not an accused in this case. Further the respondent has not initiated any confiscation proceedings so far and not having any objection to return the vehicle.



7. Taking into consideration the fact that the learned Government Advocate(crl.side) is not having any objection to return the vehicle and the petitioner who has filed this revision is not arrayed as an accused in the above case, this Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner subject to imposition of conditions.

8. Accordingly, the Criminal Revision is allowed and the impugned order, dismissing the petition for return of vehicle in Crl.MP.No.5 of 2022 dated 11.01.2022 passed by the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District, is hereby set aside and that the interim custody of the vehicle in question, Hero Splendor Plus bearing Registration No.TN 32 BA 7299 shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District.

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the learned District Munsif cum Judicial Magistrate, Pochampalli, Krishnagiri District and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the said Court as and when required by the Trial Court or the Investigating Agency.

iii) The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders from this Court.

The respondent is at liberty to proceed with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar



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To

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1. The District Munsif cum Judicial Magistrate,
Pochampalli,
Krishnagiri District.
2. The Inspector of Police,
Mathur Police Station,
Krishnagiri District
3. The Public Prosecutor,
High Court, Madras.

Copy to

The Section Officer,
Criminal Section(Records),
High Court, Madras - 104.

+1cc to Mr.E.Kannadasan, Advocate, S.R.No.19467

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BR[co]
NSK 04/04/2022