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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.323 of 2022

D.Manikandan

... Petitioner

Vs.

State by
Inspector of Police,
Prohibition Enforcement Wing,
Cheyyar,
Thiruvannamalai District
(crime No.468 of 2021)

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District in Crl.MP.No.1454 of 2021 dated 28.02.2022 dismissing the petition to return the vehicle of Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503 to the petitioner.

For Petitioner : Mr.A.Murugavel

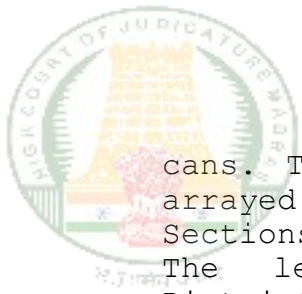
For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

This revision has been filed against the dismissal of the petition in Crl.MP.No.1454 of 2021 dated 28.02.2022 passed by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District seeking for return of the vehicle of Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503.

2. The brief facts of the case :-

The respondent has registered a case in Cr.No.468 of 2021 for the offence under Sections 4(1)(aaa), 4(1-A)(ii) of TN Prohibition Act and Sections 6 & 7 of TN Rectified Spirit Rules, 2000 and had seized the vehicle of Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503 for having used the same for transporting 30 litres of illicit arrack with 4 white plastic



cans. The petitioner who is the owner of the vehicle and not arrayed as an accused, had filed CrI.MP.No.1454 of 2021 under Sections 451 and 457 Cr.PC seeking for return of the vehicle. The learned Judicial Magistrate, Cheyyar, Tiruvannamalai District finding that the seized property handed over to the Additional Police Superintendent, Prohibition Enforcement Wing, Tiruvannamalai District for confiscation process and the respondent is not having the case property in their custody, had dismissed the petition for return of the vehicle by order dated 28.02.2022, 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 uncle, who is arrayed as accused, had taken the vehicle for rental purpose but misused the same by transporting 30 litres of illicit arrack 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 Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503 was seized by the respondent in connection with the Cr.No.468 of 2021 for having used in transporting 30 litres of illicit arrack. 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.

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

6. The petitioner is the owner of Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503. The petitioner is not an accused in this case. Further the respondent has not initiated any confiscation proceedings so far.

7. Taking into consideration the fact that the petitioner who has filed this revision is not arrayed as an accused in the



above case and so far confiscation proceedings has not been initiated, 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.

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8. Accordingly, the Criminal Revision is allowed and the impugned order, dismissing the petition for return of vehicle in CrI.MP.No.1454 of 2021 dated 28.02.2022 passed by the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District, is hereby set aside and that the interim custody of the vehicle in question, Mahindra XYLO Car bearing Registration No.TN-21-BJ-1503 shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.50,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, Cheyyar, Tiruvannamalai District

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the learned Judicial Magistrate, Cheyyar, Tiruvannamalai 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-IV)

//True Copy//

Sub Assistant Registrar

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To

1.The Judicial Magistrate,
Cheyyar,
Tiruvannamalai District



2. Inspector of Police,
Prohibition Enforcement Wing,
Cheyyar,
Thiruvannamalai District

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.A.Murugavel, Advocate, S.R.No.20049

Crl.RC.No.323 of 2022

PMK (CO)
SB (26/04/2022)