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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.03.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.R.C.NO.367 OF 2022

Sekar

... Revision Petitioner/Complainant

vs.

The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai - 600 049.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 & 401 of Code of Criminal Procedure, praying to set aside the order in Crl.M.P.No.13517 of 2021 dated 12.08.2021 on the file of XIII Metropolitan Magistrate, Egmore.

For Petitioner : Mr.N.Kumar

For Respondent : Mr.Leonard Arul Joseph Selvam
Govt. Advocate (Crl. Side)

O R D E R

The present Criminal Revision has been directed against the order dated 12.08.2021 passed in Crl.M.P.No.13517 of 2021 on the file of XIII Metropolitan Magistrate Court, Egmore, Chennai.

2. The case of the prosecution is that on 01.06.2021, in the early morning, when at the time the defacto complainant was in rounds, one Aravind, who is the son of the petitioner, transported arrack in 7 numbers of water can each containing 20 litres of liquor and totally 140 litres of liquor by using the petition mentioned Auto. Hence, a case has been registered against the said Aravind under Sections 4(1) (aaa) r/w 4(1-A) of the TNP Act in Cr.No.329 of 2021. During the investigation, the petition mentioned Auto has been recovered and produced before the Court.



3. Now after producing the Auto, which is a material object, the petitioner herein has filed a petition before the trial Court under Section 451 of Cr.P.C. praying to return the Auto for an interim custody. The petition filed by the petitioner was dismissed by the learned Metropolitan Magistrate, Egmore stating that the vehicle, which was recovered in the above said Crime Number, is not having any Engine Number and Chasis Number and the same has been erased. Therefore, it cannot be held that the petitioner is the owner of the vehicle and after observing as above, the learned Metropolitan Magistrate dismissed the petition. Now, challenging the same, the petitioner is before this Court with the present revision.

4. The learned counsel appearing for the revision petitioner would contend that the petitioner is the owner of the vehicle and he is ready to produce the R.C. Book before the trial Court. On the other hand, he fairly admits that in the Auto, which was recovered in the above said crime number, the Engine number and Chasis number were erased.

5. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent police would submit that without tallying the Engine number and Chasis number with R.C. Book, it cannot be said that the petitioner is the owner of the vehicle.

6. Now, on considering the said submissions with relevant records, it is true that in the R.C. Book, the Engine number and Chasis number of the specified vehicle were clearly mentioned and only after comparing the same with the entries found in the vehicle, we have to find out, who is the owner of the vehicle. But herein it is the case, the particulars, to compare the Engine number and Chasis number with the entries made in the R.C. Book, is not possible to the Court. Therefore, without determining the ownership of the vehicle, ordering for interim custody is not found to be correct and accordingly, the revision petition filed by the petitioner cannot be maintained.

In the result, this Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

rsi



To

1. The XIII Metropolitan Magistrate,
Egmore.
2. The Inspector of Police,
V-1, Villivakkam Police Station,
Chennai - 600 049.
3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.N.Kumar, Advocate, S.R.No.20778

Cr1.R.C.No.367 of 2022

SKM(CO)
RLP(13/04/2022)