



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.Nos.553 & 555 of 2022

SPP Enterprises
rep. By its Proprietor S.Prabhu
No.160/6A, National Highway,
Mambakkam Village, Sriperumbudur,
Kanchipuram District,
Tamil Nadu.

... Petitioner in Crl.R.C.No.553/22

S.Prabhu

... Petitioner in Crl.R.C.No.555/22

Vs.

The State represented by
The Inspector of Police,
C1 Sriperumbudur Police Station,
Kancheepuram District.
(Crime No.96 of 2022)

... Respondent in both Crl.R.C.

COMMON PRAYER: Criminal Revision Cases filed under Section 397 r/w 401 of Cr.P.C., to set aside the order of the learned Judicial Magistrate, Sriperumbudur, in C.M.P.Nos. 415 & 413 of 2022, respectively, dated 08.04.2022 and direct the respondent to return the petitioners' vehicle namely Toyota Innova Crysta Vehicle bearing No.TN87 C 5117 & (a) Mercedes Benz Car bearing vehicle No.TN87 F 1345 and (b) Swift Dezire car bearing vehicle No.TN 87 6667.

For Petitioner
in both cases : Mr.S.Velmurugan

For Respondent
in both cases : Mr.Leonard Arul Joseph Selvam,
Government Advocate(Crl. Side)



COMMON ORDER

These revisions have been filed against the dismissal order passed by the learned Judicial Magistrate, Sriperumbudur, in Crl.M.P. Nos.415 & 413 of 2021, respectively, dated 08.04.2022, seeking interim custody of the vehicles Toyota Innova Crysta Vehicle bearing No.TN87 C 5117 & (a) Mercedes Benz Car bearing registration No.TN87 F 1345 (b) Swift Dezire car bearing registration No.TN 87 6667.

2. The brief facts of the case :-

The case of the petitioner is that the petitioner in Crl.R.C.No.553 of 2022 is the proprietary concern, which belongs to one Prabhu, who is the petitioner in Crl.R.C.No.555 of 2022. Accordingly, the petitioner in Crl.R.C.No.555 of 2022 viz., Prabhu is the owner of the vehicle in connection with Crl.R.C.No.553 of 2022.

3. On 05.02.2022, the respondent police recovered the petition mentioned vehicles in connection with Crime No.96 of 2022, along with 196 illicit liquor bottles, which were illegally possessed by the petitioner. Later, the case has been registered as against the petitioners under the provisions of Tamil Nadu Prohibition Act (herein after called to as "TNP Act").

4. After made recovery, the Deputy Superintendent of Police, Prohibition Enforcement Wing, Kancheepuram, had issued show cause notices under Section 14(4) of the TNP Act, seeking explanation from the petitioner and granted 14 days time to the petitioner to submit his explanations. However, in view of the order passed by this Court in W.P.No.4535 of 2022 dated 02.03.2022, the said show cause notices were quashed and thereafter, the properties are now under the custody of the respondent.

5. Later the petitioner filed an application under Section 451 of Cr.P.C., before the learned Judicial Magistrate, Sriperumbudur, in Crl.M.P.Nos.415 & 413 of 2022, wherein the petitioner prayed to return the petition mentioned vehicles for interim custody. But the learned Judicial Magistrate, by the orders dated 08.04.2022 declined to pass a positive order and therefore, the petitioner is before this Court in the present Criminal Revision Cases.

6. Heard Mr.S.Velmurugan, learned counsel appearing for the petitioner and Mr.Leonard Arul Joseph Selvam, learned Government Advocate (Crl. Side) appearing for the respondent police in both revisions.



7. The learned counsel appearing for the petitioner would submit that the petitioner is a reputed person running a company and he has not involved in the offence as alleged by the prosecution. But the respondent police without investigating the same in a proper manner, recovered the vehicles, which is erroneous in law. The vehicles were taken by the respondent police from the house of the petitioner and foisted the case for statistical purpose. 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 vehicles 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. Hence, he prayed to set aside the orders dated 08.04.2022 and to return the vehicles to the petitioner for interim custody.

8. The learned Government Advocate (Crl. Side) appearing for the respondent police would submit that since the petitioner is arrayed as accused in the petition mentioned case, if the properties were handed over to him, he may try to tamper the witnesses by altering the position of the vehicles and therefore he strongly objected to allow these petitions.

9. Submissions made by the learned counsel appearing on either side are considered and perused the materials available on record.

10. It is not in dispute that the petitioners are arrayed as accused in the petition mentioned case. Further, the respondent police registered a case as against the petitioners for the offences punishable under Section 353 of IPC and Section 4(1)(aa), 4(1-A) of TNP Act. In this connection, under the prohibition Act, it should be necessary for the authorized officer to confiscate the vehicles, which were recovered in connection with the offence punishable under the TNP Act.

11. Therefore, in the said circumstances, though the petitioner may be the owner of the vehicles, if the vehicles were handed over to him for interim custody, there shall be a chance for tampering the evidence by altering the parts of the vehicles. Further there may be a chance to sell the properties and if so, it would difficult for the prosecution to prove the case by producing the vehicles before the trial Court.



12. Therefore, in view of the above, this Court is not inclined to allow these revisions and the impugned orders dated 08.04.2022 passed in CrI.M.P.Nos.415 & 413 of 2022 are confirmed. Accordingly, both the Criminal Revision Cases are dismissed.

Sd/-
Assistant Registrar(CS IV)

True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Sriperumbudur.
2. The Inspector of Police,
C1 Sriperumbudur Police Station,
Kancheepuram District.
3. The Public Prosecutor,
High Court, Madras.

CrI.RC.No.553 & 555 of 2022

AJB[co]
NSK/13/05/2022