

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.04.2022

CORAM

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.R.C.No.571 of 2022

K.Dharmaraj ... Petitioner/Petitioner/3rd Party

Vs.

The State represented by
The Inspector of Police,
Karuppur Police Station,
Salem City
(Crime No.174 of 2021)

...Respondent/Petitioner/Complainant

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate-II, Salem in Crl.MP.No.1260 of 2021 dated 12.10.2021 dismissing the petition to grant interim custody of the vehicle Maruthi Eeco Car bearing registration No.KA 04 MY 8240.

For Petitioner: Mr.K.Sathiyapilla

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.1260 of 2021 dated 12.10.2021 passed by the learned Judicial Magistrate-II, Salem seeking interim custody of the vehicle Maruthi Eeco Car bearing registration No.KA 04 MY 8240.

2. The brief facts of the case :-

The respondent has registered a case in Cr.No.174 of 2021 for the offence under Section 4(1)(aa) and 4(1-A) of TN Prohibition Act and had seized the vehicle Maruthi Eeco Car bearing registration No.KA 04 MY 8240 for having used the same for illegal transportation of 718 Nos. Haywards Punch Fine

Whisky(each 90 ml) and 1 No. Original Choice liquor bottle. The petitioner who is the owner of the vehicle and not arrayed as an accused, had filed CrI.MP.No.1260 of 2021 under Section 457 Cr.PC seeking for interim custody of the vehicle. The learned Judicial Magistrate-II, Salem, finding that confiscation proceedings has been initiated, had dismissed the petition for interim custody of the vehicle by order dated 12.10.2021, 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 friend, who is arrayed as accused, had taken the vehicle for emergency purpose during covid-19 lock down, but misused the same by transporting the 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 Maruthi Eeco Car bearing registration No.KA 04 MY 8240 was seized by the respondent in connection with the Cr.No.174 of 2021 for having used in the illegal transportation of liquor. However, he would fairly submit that the petitioner is not an accused in this case and 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 the vehicle Maruthi Eeco Car bearing registration No.KA 04 MY 8240. 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 respondent has not initiated any confiscation proceedings so far 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 the vehicle in CrI.MP.No.1260 of 2021 dated 12.10.2021 passed by the learned Judicial Magistrate-II, Salem, is hereby set aside and that the interim custody of the vehicle in question, Maruthi Eeco Car bearing registration No.KA 04 MY 8240 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-II, Salem.

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the learned Judicial Magistrate-II, Salem, 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.

9. 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

// TRUE COPY //

SUB ASSISTANT REGISTRAR

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To

1.The Judicial Magistrate-II,
Salem

2.The Inspector of Police,
Karuppur Police Station,
Salem City

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.K.Sathiyapillai, Advocate Sr.29885

Crl.RC.No.571 of 2022

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