

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM

THE HONOURABLE MR.JUSTICE N. SATHISH KUMAR

Crl.O.P.No.14935 of 2022

Rathan Singh

...Petitioner/Revision Petitioner/Vehicle Owner

Vs.

The Inspector of Police

Burgur Police Station

Erode District

Crime No.36 of 2021

...Respondent

PRAYER: The Criminal Revision Petition is filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 01.09.2021 made in C.M.P.No.1577 of 2021, on the file of the learned Judicial Magistrate No.II, Bhavani, confirmed by the lower appellate Court made in Crl.RC.P.No.29 of 2022 dated 12.04.2022 on the file of IV Additional District and Sessions Judge, Erode District at Bhavani and release the vehicle Belero Pickup van of the petitioner bearing Registration No.TN-38-CR-2525 by allowing this petition.

For Petitioner : Mr.T.Nixon

For Respondent : Mr.A.Gokularksihnan
Additional Public Prosecutor

O R D E R

This Criminal Original Petition has been filed seeking to set aside the order dated 01.09.2021 made in C.M.P.No.1577 of 2021, on the file of the learned Judicial Magistrate No.II, Bhavani, confirmed by the lower appellate Court in Crl.RC.P.No.29 of 2021 dated 12.04.2022 on the file of IV Additional District and Sessions Judge, Erode District at Bhavani, and to release the vehicle Belero Pickup van of the petitioner bearing Registration No.TN-38-CR-2525.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle bearing Registration No.TN-38-CR-2525 which is said to have been used for carrying Tobacco products illegally. The petitioner is not arrayed as an accused and without his knowledge, the driver has used the vehicle for illegal gain. He would further submit

that the order of rejecting to release the vehicle would seriously affect the petitioner as the vehicle is parked in the open area exposing to vagaries of weather and thereby the value of the vehicle is diminishing day by day. He would also submit that the petitioner had filed a petition in Crl.M.P.No.1577 of 2021 before the Judicial Magistrate-II, Bhavani, seeking for return of property whereas, the trial Court had dismissed the petition by order dated 01.09.2021. Against which, the petitioner had preferred a Criminal Revision Petition in Crl.RC.P.No.29 of 2021 before the IV Additional District and Sessions Judge, Erode District at Bhavani and the same was also dismissed on 12.04.2022. He would further submit that the petitioner undertakes that he will not dispose the vehicle and that the petitioner is prepared to produce the vehicle before the authorities or before the Court as and when required by them and would seek to set aside the impugned order and to direct to release of the vehicle.

3. Mr.A.Gokulakrishnan, Additional Public Prosecutor, appearing for the respondent police would submit that on 09.05.2021, when the Bolero Pick Up Van bearing Registration No.TN-38-CR-2525 which was proceeding from Mysore to Bargur was intercepted by the respondent police, the driver of the vehicle fled away leaving the vehicle. On search of the vehicle, it was found with 63 white bags, each containing 50 packets of Hans totally 3150 packets and another 2 blue bags containing 300 packets of cool lip, totally 600 packets and thereby, the police registered a case in Crime No.36 of 2021 for the offences under Sections 7, 24(1) of Cigarette and other Tobacco Products Act 2003 and 273, 328 IPC against the driver of the vehicle. However, the learned Additional Public Prosecutor has not disputed the fact that the petitioner is not arrayed as an accused in this case and the knowledge is also not attributed.

4. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor and perused the materials available on record.

5. In such view of the matter keeping the vehicle permanently in the custody of the police would expose to the nature and it will diminish the value. Further, the petitioner is not involved in the offence. Hence, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

6. The order dated 01.09.2021 made in C.M.P.No.1577 of 2021, on the file of the learned Judicial Magistrate No.II, Bhavani, confirmed by the lower appellate Court in Crl.RC.P.No.29 of 2021 dated 12.04.2022 on the file of IV Additional District and Sessions Judge, Erode District at Bhavani, stands set aside.

7. The Criminal Original Petition stands allowed and the interim custody of the vehicle is directed to be handed over to the petitioner subject to the following conditions:

a) The petitioner is directed to execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs Only) before the trial Court.

b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and that he will produce the vehicle before the trial Court as when required by the trial Court or the Investigating Agency.

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

8. The concerned authority shall proceed further with the confiscation proceedings and the order passed in this petition will not be a bar to the authorities in proceeding with the confiscation proceedings.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

ksa-2/nr

To

1.The Judicial Magistrate No.II, Bhavani,

2.The Chief Judicial Magistrate, Erode.

3.The Principle District and Sessions Judge, Erode.

4.The IV Additional District and Sessions Judge,
Erode District at Bhavani

5.The Inspector of Police,
Burgur Police Station, Erode District

6.The Public Prosecutor,
Madras High Court.

+1cc to Mr.T.Nixon, Advocate SR. No. 41120

Cr1.O.P.No.14935 of 2022

GJ (CO)

PR (19/07/2022)