

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.06.2022

CORAM:

THE HON'BLE MR.JUSTICE SATHI KUMAR SUKUMARA KURUP

Crl.O.P.No.19244 of 2021

S.Sakthivel

... Petitioner

Versus

The State Rep.by
The Inspector of Police
15, Velampalayam Police Station
Thirupur 641 652.

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the Respondent to release the Ashok Leyland Container Vehicle bearing No.TN-28-BC-6422 as per the order dated 12.07.2021 in Crl.M.P.No.852/2021 by the Learned Judicial Magistrate No.III, Thirupur and grant relief or reliefs which the Court may deem fit.

For Petitioner : Mr.D.Vijayan

For Respondent : Mr.L.Baskaran
Government Advocate (Crl.Side)

ORDER

This petition has been filed to direct the Respondent to release the Ashok Leyland Container Vehicle bearing Registration No.TN-28-BC-6422 as per the order dated 12.07.2021 in Crl.M.P.No.852/2021 by the Learned Judicial Magistrate No.III, Thirupur

2. It is the contention of the Petitioner that after seizure of the vehicle by the Respondent the Petitioner he had approached the Court of the Learned Judicial Magistrate No.III, Thirupur, where, the Learned Judicial Magistrate No.III, Thirupur, had passed an interim order granting interim custody of the vehicle. In spite of the same, the vehicle was not

released, the Deputy Superintendent of Police, Prohibition Enforcement Wing, Thirupur, was proceeding the seized vehicle as per the provisions of the Tamil Nadu Prohibition Act. Further, it is the contention of the Petitioner that if the vehicle is exposed to the fury of nature, it would be damaged. Therefore, he seeks custody.

3. The Learned Government Advocate (Crl.Side) vehemently objects to the submission of the Learned Counsel for the Petitioner stating that the Petitioner was issued a show cause notice regarding the Auction to be initiated by the Deputy Superintendent of Police, Prohibition Enforcement Wing, Thirupur regarding the sale of the seized vehicle, which was involved in transport of alcohol. It is an offence under the Tamil Nadu Prohibition Act. Therefore, as per the provisions of the Tamil Nadu Prohibition Act, the Deputy Superintendent of Police is empowered to confiscate the vehicle by conducting Public Auction regarding the seized vehicle. Hence, he had assessed the value of the vehicle at Rs.6 lakhs with the help of the Automobile Engineer. Before proceeding with the Public auction, he had issued a notice to the owner of the vehicle to pay the said amount and get the vehicle, after production of original RC-Book and Address proof. In spite of the same, the Petitioner had not filed any reply. Therefore, he had passed the order dated 10.02.2022.

4. The Learned Judicial Magistrate had passed order granting interim custody. As per Tamil Nadu Prohibition Act, when motor vehicles involved in transport of alcohol are seized, the Deputy Superintendent of Police, Prohibition Enforcement Wing in the District concerned is empowered to confiscate the seized Motor Vehicle to the State. The Deputy Superintendent of Police, Prohibition Enforcement Wing is empowered to do so as per the provisions of Tamil Nadu Prohibition Act. Therefore, exercising extra ordinary powers of the High Court under Section 482 of the Code of Criminal Procedure, this Court cannot interfere in such powers of the Police Officer concerned, as it is within the powers under Tamil Nadu Prohibition Act. As per the guidelines issued by the Hon'ble Supreme Court in the reported judgment, "State of Haryana and Ors. Vs. Ch.Bhajan Lal and Ors, this Court can interfere only if there is abuse of process of Court. Here it is lawful Act of the Deputy Superintendent of Police, Prohibition Enforcement Wing.

5. In the light of the proceedings of the Deputy Superintendent of Police, this Court is not inclined to pass any order in this petition. Hence, this Criminal Original Petition

is dismissed. The Petitioner is directed to participate in the Public Auction before the Deputy Superintendent of Police.

Sd/-
Deputy Registrar (CS)

//True Copy//

Sub Assistant Registrar

dna

To

1. The Judicial Magistrate No.III,
Thirupur.
2. The Inspector of Police
15, Velampalayam Police Station
Thirupur 641 652.
3. The Public Prosecutor,
High Court, Madras.
4. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Thirupur.

+1cc to Mr.D.Vijayan, Advocate, S.R.No.34818

Cr1.O.P.No.19244 of 2021

(CO)
UMA(11/07/2022)