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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2022

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.984 of 2021

Rajaveeran

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Thali Police Station
Tiruppur District.
(Crime No.544 of 2021)

... Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 15.11.2021 in Crl.M.P.No.974 of 2021 on the file of the learned Judicial Magistrate No.2, Udumalpet (FAC) and to allow the revision.

For Petitioner : Mr.A.Sathishkumar

For Respondent : Mr.S.Sugendran
Government Advocate [Crl. Side]
* * * * *

O R D E R

(The case has been heard through Video Conferencing)

This Criminal Revision Petition has been filed against the dismissal of the petition seeking for return of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of TVS STAT CITY bearing Registration No.TN 88-Y-6933. He had purchased the vehicle on 04.10.2021 and the erstwhile owner had also signed the necessary forms for enabling the transfer of original R.C.Book in the name of the petitioner. Whiles, on 19.10.2021, the respondent registered a case in Crime No.544 of 2021 against him for the offences under Section 4(1)(a) of T.N.P. Act for having found to be in possession of one quarter bottle of Top Star Brandy Bottle. Learned counsel would submit that the petitioner was having a single bottle for his own consumption whereas the police have foisted a false case on him as if the petitioner was having



bottle for selling it to the third party. The petitioner is entitled to hold one bottle of liquor whereas the respondents have seized the vehicle and have also produced it before the concerned Court. Learned counsel for the petitioner would submit that the vehicle is parked in the open area exposed 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 Crl.M.P.No.974 of 2021 seeking for return of property whereas the trial court holding that the vehicle is likely to be confiscated, had dismissed the petition. He would further submit that till date, no summons or show cause notice is served on the petitioner for confiscation. 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 thereby would seek to set aside the impugned order and direct the release of the vehicle.

5. Mr.S.Sugendran, learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner was found in possession of 180 ml of illicit liquor on 19.10.2021. The respondent registered a case for the offence under section 4(1)(i) of TNP Act. He would further submit that the petitioner has got one previous case under the Prohibition Act and another case registered for the offences under sections 294(b) and 506(i) IPC. He would further submit that the respondents are taking steps for initiating proceedings for confiscation and till date, show cause notice has not been served on the petitioner.

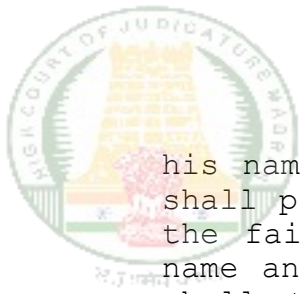
6. Taking into consideration of the fact that the petitioner was found in possession of one bottle of 180ml of brandy and that till date, no show cause notice has been issued on the petitioner, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

6. In view of the above, the order dated 15.11.2021 in Crl.M.P.No.974 of 2021 stands set aside and the Criminal Revision 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 shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.2, Udumalpet (Fast Track Court).

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

c) The petitioner is directed to transfer the R.C.book in



his name within four weeks and on such transfer, the petitioner shall produce the original R.C.book before the trial court. On the failure of the petitioner to transfer the ownership in his name and produce the R.C.book before the court, the trial Court shall take steps to seize the vehicle. The RC book of the vehicle shall be retained by the trial Court till the disposal of the trial or until further orders.

7. The concerned authority shall proceed further 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(CCC)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1.Judicial Magistrate No.2,
Udumalpet (FAC)

2.The Inspector of Police,
Thali Police Station
Tiruppur District.

3.The Public Prosecutor,
Madras High Court.

+lcc to Mr.A.Sathish Kumar, Advocate, S.R.No.2947

Cr1.R.C.No.984 of 2021

MT(CO)
CB(02/02/2022)