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CrI.O.P.No.25739 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.10.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CrI.O.P.No.25739 of 2022

and

CrI.M.P.No.15938 of 2022

Rajeev Poullose

... Petitioner

Vs.

State rep. by:

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Krishnagiri District.

2.The Inspector of Police,
Prohibition Enforcement Wing,
Hosur,
Krishnagiri District.

3.The Sub Inspector of Police,
Prohibition Enforcement Wing,
Hosur,
Krishnagiri District.

... Respondents

PRAYER: This Criminal Original Petition filed under Section 482 of Cr.P.C., to call for the records pertaining to the proceedings of the first respondent in C.No.22-2/CONF/DSP/PEW/KGI/2022 dated 23.08.2022 and set aside the same consequently direct the respondents to release the vehicle viz., EICHER bearing Registration No.KL 63 G 0545 seized in Crime No.58 of 2022 on the file of the respondents.

For Petitioner : Mr.M.S.Soundara Rajan

For Respondents : Mr.S.Santhosh,
Government Advocate (crl.side)



Crl.O.P.No.25739 of 2022

ORDER

This Criminal Original Petition has been filed to set aside the proceedings initiated by the first respondent in C.No.22-2/CONF/DSP/PEW/KGI/2022 dated 23.08.2022 and to release the vehicle viz., EICHER bearing Registration No.KL 63 G 0545 seized in Crime No.58 of 2022 on the file of the respondents.

2.The learned counsel for the petitioner submitted that the first respondent police confiscated the petitioner's vehicle viz., Eicher Lorry bearing Registration No. KL 63 G 0545 by issuing impugned notice in C.No.22-2/CONF/DSP/PEW/KGI/2022 on 23.08.2022. Previously, the petitioner had filed Crl.O.P.16148 of 2022 before this Court with regard to set aside the confiscation order passed by the first respondent police and the same was allowed on 19.07.2022 with a direction to the respondents police to initiate fresh confiscation after issuing fresh show cause notice and giving an opportunity of personal hearing to the petitioner and such process shall be completed within a period of four months. Now, without issuing any fresh notice and without giving an opportunity to the petitioner, the first respondent again issued impugned notice which is unsustainable. Hence, the present petition has been filed.



Crl.O.P.No.25739 of 2022

WEB COPY

3.The learned Government Advocate (crl.side) appearing for the respondents submitted that in pursuant to the order passed by this Court in Crl.O.P.No.16148 of 2022 dated 19.07.2022, no fresh confiscation order has been passed by the respondents police.

4. I have considered the matter in the light of the submission made by the learned counsel for the petitioner and the learned Government Advocate (Crl.side) for the respondents.

5. On perusal of records, it is seen that the petitioner's vehicle viz., Eicher Lorry bearing Registration No. KL 63 G 0545 has been seized by the respondent police in connection with Crime No.58 of 2022 for the offence punishable under Sections 4(1)(a) TNP Act (Transportation). Previously, the order for confiscation proceedings in C.No.22-2/CONF/DSP/PEW/KGI/2022 was challenged by the petitioner by filing Crl.O.P.No.16148 of 2022 before this Court and the same was allowed on 19.07.2022 by setting aside the impugned order passed by the first respondent police and directed the respondents to issue a fresh notice to the petitioner and give an opportunity of personal hearing to the petitioner and pass orders.



Crl.O.P.No.25739 of 2022

WEB COPY

6. Further, the respondent police without following the directions of this Court in earlier order, had issued impugned notice by directing the petitioner to give explanation within 15 days with regard to confiscation of Eicher Lorry bearing Registration No. KL 63 G 0545, which is unsustainable. Therefore, the impugned proceedings passed by the first respondent in C.No.22-2/CONF/DSP/PEW/KGI/2022 dated 23.08.2022 is set aside with a direction to the respondents police to comply with the order passed by the Court in Crl.O.P.No.16148 of 2022 dated 19.07.2022 and thereafter, pass an order in accordance with law.

7. With the above directions, this Criminal Original Petition stands allowed. Further, the respondents police are directed to complete the enquiry within a period of four weeks from the date of receipt of a copy of this order. Consequently, connected Miscellaneous Petition is closed.

26.10.2022

Internet: Yes/No

Index: Yes/No

Speaking/Non speaking order

shk



CrI.O.P.No.25739 of 2022

To

1. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Krishnagiri District.
2. The Inspector of Police,
Prohibition Enforcement Wing,
Hosur,
Krishnagiri District.
3. The Sub Inspector of Police,
Prohibition Enforcement Wing,
Hosur,
Krishnagiri District.
4. The Public Prosecutor,
High Court of Madras.



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V.SIVAGNANAM,J.
shk

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