



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.03.2022

CORAM:

THE HONOURABLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRL.R.C(MD).No.295 of 2022

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R.Kamalakaran

... Petitioner/Petitioner

Vs

Station House Officer/Sub-Inspector of Police,
Thiruthangal Police Station,
Viruthunagar District.

... Respondent/Complainant

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of the Code of Criminal Procedure, to call for the records in pursuant to the order passed in Crl.M.P.No.3817 of 2021 on the file of the learned Judicial Magistrate No.II, Sivakasi dated 01.11.2021 and set aside the same as illegal and consequently direct the respondent to return the vehicle bearing Registration No.TN-95-C-5065, PIAGGIA Ape Auto DX to the petitioner.

For Petitioner : Mr.S.Selvakumar

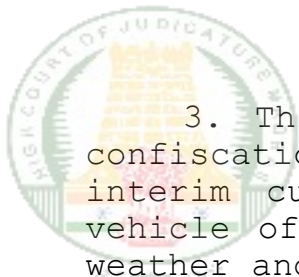
For Respondents : M/s.M.Aasha

Government Advocate (Criminal Side)

O R D E R

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.3817 of 2021 on 01.11.2021 by the learned Judicial Magistrate No.II, Sivakasi and direct the respondent to return the vehicle bearing Registration No.TN-95-C-5065, PIAGGIA Ape Auto DX to the petitioner.

2. The petitioner is an accused in Crime No.469 of 2021 which was registered for the offence under Sections 4(1-A) & 4(1)(i) of Tamil Nadu Prohibition Act. Pursuant to the registration of the case, the vehicle of the petitioner was seized and produced before the learned Judicial Magistrate No.II, Sivakasi. In the First Information Report, it is alleged that the petitioner was found in possession of liquor with an intention to sell the same for higher price. While pending investigation, the petitioner filed a petition for return of his vehicle, however, the same was dismissed for the reason that the confiscation proceedings is pending as against the petitioner's vehicle.



3. This Court has repeatedly held that mere pendency of the confiscation proceedings is not a bar for granting the relief of interim custody and ordered return of vehicle. That apart, the vehicle of the petitioner is exposed in open space to vagaries of weather and thereby, the value of the vehicle is getting diminished.

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4. In view of the aforesaid reasons, this Court is constrained to set aside the order passed by the learned Judicial Magistrate No.II, Sivakasi, made in Crl.M.P.No. 3817 of 2021 dated 01.11.2021 and the Criminal Revision Case is allowed.

5. The learned Judicial Magistrate No.II, Sivakasi, is directed to return the vehicle viz., PIAGGIA Ape Auto DX bearing Registration No.TN-95-C-5065, to the petitioner on the following conditions:-

(i) The petitioner shall produce the original RC BOOK and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC Book and other records, retaining the Xerox copy of the same, shall return the original documents to the revision petitioner with a view to use the vehicle.

(ii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iii) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

Sd/-

Assistant Registrar (CS-II)

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/ /2022

Sub Assistant Registrar(CS)

ssb

To

1. The Judicial Magistrate No.II,
Sivakasi.

2. The Station House Officer/Sub-Inspector of Police,
Thiruthangal Police Station,
Viruthunagar District.



3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

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23.03.2022

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