



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.06.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P. (MD) No.13318 of 2022

WEB COPY

Karthishwaran

... Petitioner

Vs.

1. The State,
Represented through its
Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Virudhunagar District.

2. The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District,
(Crime No.161 of 2022)

... Respondents

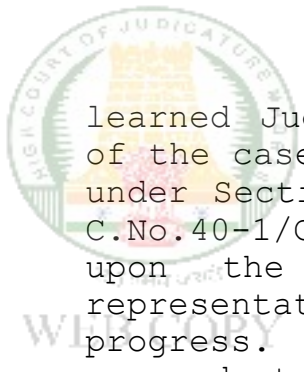
PRAYER: Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Mandamus directing the respondents to release petitioner's Hero Splendor Plus Two Wheeler vehicle bearing Registration No.TN 95 F 8164, based on the representation dated 17.06.2022, within a stipulated time.

For Petitioner : Mr.M.Paramasivam
For Respondents : Mr.P.Subbaraj
Special Government Pleader

O R D E R

This Writ Petition is filed for issuance of a Writ of Mandamus, directing the respondents to release the petitioner's Hero Splendor Plus Two Wheeler vehicle bearing Registration No.TN 95 F 8164, based on the representation dated 17.06.2022 given by him.

2. The case of the petitioner is that the petitioner is the owner of Hero Splendor Plus Two Wheeler vehicle bearing Registration No.TN 95 F 8164 and he has been arrayed as an accused in Crime No.161 of 2022 for offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 193. On 07.05.2022, at about 20.15, the second respondent has conducted a raid near Karuppusamy Temple, Anaikuttam Road. At that time, the petitioner and the pillion rider namely Pandi came there. The second respondent Police stopped the vehicle and enquired them. On enquiry, the pillion rider was found in possession of 30 number of bottles of 180 ml of Men's Club Brandy. Thereafter, the second respondent police seized the vehicle and the liquor bottles. The petitioner and the pillion rider were arrested and remanded to judicial custody and they were produced before the



learned Judicial Magistrate-II, Sattur. Following the registration of the case, the first respondent initiated confiscation proceedings under Section 14(1) of the Tamil Nadu Prohibition Act. Notice under C.No.40-1/CONF/DSP/PEW/VNR/2022 dated 28.05.2022 was issued calling upon the petitioner to give explanation. He has sent a representation on 08.06.2022 and the confiscation proceedings is in progress. The petitioner had sent another representation to the respondents on 17.06.2022, however, no action has been taken. Hence, he has filed this petition.

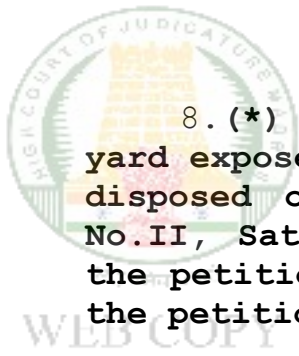
3. The learned counsel appearing for the petitioner submitted that the petitioner has been falsely implicated in this case. He is a Mason, who has to travel 17 km to attend his work. For the said purpose, he is using the vehicle. On the fateful day, while he was riding the vehicle, an unknown person asked for lift to the petitioner and the petitioner has also given lift to him. During that time, the second respondent Police stopped the vehicle near Karuppusamy Temple, Anaikuttam Road and found that the pillion rider was holding a bag containing some brandy bottles. The petitioner is not aware of the same and he has only given lift to the pillion rider namely Pandi.

4. The learned Special Government Pleader appearing for the respondents submitted that the vehicle of the petitioner is involved in a prohibition offence and a case has been registered in Crime No.161 of 2022 for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act. The petitioner's vehicle has been confiscated and as per the provision of the Tamil Nadu Prohibition Act.

5. Considered the submissions made by the learned counsel appearing for both sides and perused the materials placed before this Court.

6. It is seen that the vehicle was seized on 07.05.2022 and the vehicle is kept in the open yard exposed to vagaries of weather conditions. Now, the value of the vehicle got diminished and further, keeping the vehicle in the open place, the vehicle will become unusable. In the event of the second respondent not producing the vehicle before the learned Judicial Magistrate, the vehicle is to be produced before the learned Judicial Magistrate, Sattur, immediately after the petition for return of vehicle is filed before the learned Judicial Magistrate who shall consider the same and pass orders accordingly. The pendency of confiscation proceedings is not an obstacle to consider the return of property petition.

7. It is also made clear that the pendency of confiscation proceedings will not deny the right of filing a petition for return of property and get the same. The only condition is that the vehicle can be handed over to the petitioner if he is otherwise eligible with a condition that it is subjected to confiscation proceedings.



8.(*). Considering the fact that if the vehicle is kept in an yard exposed to vagaries of weather condition, this Writ Petition is disposed of with a direction to the learned Judicial Magistrate No.II, Sattur to dispose the return of property petition filed by the petitioner within a period of two weeks from the date of filing the petition. No costs.

Sd/-

Assistant Registrar (AE)

(*)Corrected as per the order of this Court dated 05.07.2022 made in W.P. (MD)No.13318 of 2022

Sd/-

Assistant Registrar (CS-II)

// True Copy //

28/06/2022

Sub Assistant Registrar(CS)

vji

To

(*)To be substituted to the order already despatched on 28/06/2022

- 1.The Judicial Magistrate No.II,
Sattur.
- 2.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Virudhunagar District.
- 3.The Inspector of Police,
Vembakottai Police Station,
Virudhunagar District,

+1 CC to M/s.M.PARAMASIVAM, Advocate (SR-28611[F]
dated 28/06/2022)

+1 CC to M/s.SPL.GP (SR-28515[F] dated 28/06/2022)

W.P. (MD)No.13318 of 2022

27.06.2022

ark(CO)

GC(28.06.2022) 3P 6C

RD(12/07/2022) 3P 6C