



WP(MD)No.14552 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

DATED : 07.07.2022

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THE HONOURABLE MR. JUSTICE M.NIRMAL KUMAR

Writ Petition (MD) No.14552 of 2022

Jeyapriya, W/o.Boopathi

.. Petitioner

Versus

The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

.. Respondent

Prayer:- Petition filed under Article 226 of the Constitution of India praying for issuance of a Writ of Certiorarified Mandamus, to call for records relating to the impugned confiscation order in 10-01/பறிமுதல்/து-கா.க/ம.வி.அ.பி/இராம/2022, dated 22.03.2022, on the file of the respondent, quash the same as illegal and consequently, direct the respondent to release the petitioner's Motorcycle bearing Registration No.TN-65-AL-6259, within a stipulated time to be fixed by this Court.

For Petitioner : Mr.B.Mahendrarajan

For Respondent : Mr.P.Subbaraj
Special Government Pleader

ORDER

The petitioner has filed this Writ Petition seeking to quash the confiscation order of the respondent, dated 22.03.2022, and consequently,



WP(MD)No.14552 of 2022

direct the respondent to release her Motorcycle, bearing Registration No.TN-65-AL-6259, within a time frame to be fixed by this Court.

2.The petitioner, who is the owner of vehicle *viz.*, Hero Pleasure, bearing Registration No.TN-65-AL-6259, was served with a confiscation order passed by the respondent, dated 22.03.2022, against which, the present Writ Petition is filed.

3.The contention of the learned counsel for the petitioner is that a case in Crime No.23 of 2022 was registered by the Inspector of Police, Uchipuli Police Station, for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937 alleging that the petitioner's husband involved in illegal transportation of 60 bottles of liquor *viz.*, Top Star Brandy 180 ML - 48 bottles and Vorion Brandy 180 ML - 12 bottles. Further, the petitioner is not arrayed as an accused in the said crime number. The petitioner purchased the two wheeler for her mobility and to attend her works. The petitioner's husband without her knowledge, had taken the vehicle and the aforesaid case was registered against him and she is in noway connected with the said crime number. Further, the vehicle has not been produced before the concerned Magistrate. On the other hand, on 25.01.2022, her vehicle was seized by the Police and thereafter, she was served with a notice on 24.02.2022, calling



WP(MD)No.14552 of 2022

upon her to submit her explanations. The petitioner sought time and personal hearing for making her objections, which were denied. The petitioner was not given an opportunity to make her objections. Further, the petitioner was also not given an option of paying the confiscation fee to redeem her vehicle. Thus, the provisions of Section 14(4) of the Tamil Nadu Prohibition Act, 1937 have not been followed in this case, which is a gross violation.

4.The learned counsel for the petitioner further submits that the vehicle is yet to be produced by the authorities before the learned Judicial Magistrate No.I, Ramanathapuram, and therefore, the petitioner is not in a position to file a petition seeking return of vehicle. Though the petitioner's husband falsely implicated in this case, he has no bad antecedents.

5.In support of his submissions, the learned counsel for the petitioner relied upon an order of this Court, **dated 15.07.2020, made in W.P.(MD)No. 10772 of 2020 [Bharathirajan vs. The Additional Superintendent of Police, Prohibition and Enforcement Wing, Ramanathapuram and another]**, wherein, this Court for non-compliance of the statutory provision under Section 14(4) of the Tamil Nadu Prohibition Act, 1937, had quashed the confiscation proceedings and directed the respondent Police therein to hand the vehicle to the owner.



WP(MD)No.14552 of 2022

6.Mr.P.Subbaraj, learned Special Government Pleader takes notice for the respondent and submits that the petitioner's husband involved in an offence of transporting 60 liquor bottles in a two wheeler and therefore, following the provisions of the Tamil Nadu Prohibition Act, 1937, the vehicle was seized and confiscation proceedings were initiated and notice was served on the petitioner. However, the petitioner failed to appear and make her objections and now, she claims that she was not given an opportunity of hearing. The confiscation authority after giving an opportunity, had passed the confiscation order. The learned Special Government Pleader fairly submits that the option of paying amount in lieu of confiscation has not been given.

7.Considering the above said rival submissions and on perusal of the materials, it is seen that the petitioner is the owner of the vehicle. Further, the occurrence had taken place on 22.01.2022. Thereafter, till date, the vehicle has not been produced before the concerned Jurisdictional Magistrate. The respondent/confiscation authority had not given an opportunity for personal hearing to the petitioner for making her objections. Further, before passing the order of confiscation, the option of paying amount in lieu of confiscation is not given, which is a violation of Section 14(4) of the Tamil Nadu Prohibition Act, 1937.



WP(MD)No.14552 of 2022

8. In view of the above, the confiscation order passed by the respondent, dated 22.03.2022, is hereby quashed. The Inspector of Police, Uchipuli Police Station, is directed to produce the vehicle before the learned Judicial Magistrate No.I, Ramanathapuram. The petitioner is at liberty to file a petition under Section 451 r/w. 457 of Cr.P.C. before the learned Judicial Magistrate No.I, Ramanathapuram, for return of vehicle. The learned Judicial Magistrate No.I, Ramanathapuram, is directed to dispose of the petitioner's petition within a period of two weeks from the date of filing of the petition. It is made clear that the respondent shall give an opportunity of personal hearing to the petitioner and follow Section 14(4) of the Tamil Nadu Prohibition Act, 1937 and proceed with the confiscation proceedings. It is also made clear that the pendency of the confiscation proceedings would noway deny the petitioner the right of seeking return of vehicle. The only requirement is that the custody of the vehicle can be handed over to the petitioner subject to the outcome of the confiscation proceedings.

9. With the above directions, this Writ Petition is disposed of. No costs.

Index : Yes/No
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To

07.07.2022

The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.

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WP(MD)No.14552 of 2022

M.NIRMAL KUMAR, J.

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Writ Petition (MD) No.14552 of 2022

07.07.2022