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Crl.R.C.(MD) No.674 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.674 of 2022

M.Balamurugan

... Petitioner

Vs.

1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Dindigul.

2.The Sub-Inspector of Police,
Chinnalapatti Police Station,
Dindigul District.
Crime No.453 of 2021.

... Respondents

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the impugned order passed by the first respondent in C.No.11/Con/DSP-PE/DGL/2021 in Prohibition Enforcement Wing, Dindigul District and set aside the impugned order dated 27.09.2021 and allow the Criminal Revision.

For Petitioner : Mr.M.Viji.

For Respondents : Mr.S.Manikandan,
Government Advocate (Crl. side) for R1.



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ORDER

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This Criminal Revision Case is directed against the order passed by the first respondent/Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul, dated 27.10.2021 (shown as 27.09.2021 in the order), directing the confiscation of the vehicle TVS XL Heavy Duty bearing Registration No. TN-57-BH-4069.

2. It is seen from the records that FIR came to be registered in Crime No.458 of 2021 under Section 4(1)(a) Tamil Nadu Prohibition Act against one Manikandan for transporting the liquor bottles through two wheeler TVS XL Heavy Duty bearing Registration No. TN-57-BH-4069 and that they have seized the said vehicle and the same was produced before the Court.

3. It is further evident that the first respondent has issued notice, dated 25.09.2021, to the petitioner herein seeking explanation as to why the vehicle should not be confiscated.

4. The learned counsel for the petitioner would submit that though notice was issued on 25.09.2021, giving 14 days for submitting explanation, the impugned order was passed on 27.09.2021.



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5. When the matter is taken up for hearing today, the concerned Deputy Superintendent of Police is present and submitted that the impugned order was passed on 27.10.2021, but 27.09.2021 was mentioned by mistake. He further submitted that the petitioner has sent a representation in response to the notice dated 25.09.2021 and the same was received by the first respondent on 06.10.2021.

6. The learned Government Advocate (Criminal Side) would submit that since the petitioner himself has sent a representation only on 06.10.2021, there was no occasion for the first respondent to pass the impugned order on 27.09.2021 and it is only a typographical mistake.

7. But at the same time, as rightly contended by the learned counsel for the petitioner, in the impugned order, it has been specifically stated that since the petitioner even after receipt of notice dated 25.09.2021, has not sent any reply and thereby, he has not furnished any explanation as to why his vehicle should not be confiscated, recorded a finding that the petitioner was not having any objections and on that basis, the impugned order was passed confiscating the vehicle to the Government.



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8. Even according to the first respondent, the Office of the first respondent has received the reply of the petitioner on 06.10.2021, but the same was not at all referred in the impugned order. Hence, this Court has no hesitation to hold that the impugned order is not good in law and is liable to be set aside.

9. In the result, the Criminal Revision Petition is allowed and the impugned order dated 27.10.2021, in C.No.11/Con/DSP-PE/DGL/2021 in Prohibition Enforcement Wing, Dindigul District, is set aside. The first respondent is directed to issue a fresh notice to the petitioner and conduct proper enquiry and pass orders in accordance with law.

22.07.2022

Index : Yes/ No
Internet : Yes/No
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To:-

- 1.The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Dindigul.
- 2.The Sub-Inspector of Police,
Chinnalapatti Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

ORDER MADE IN
CrI.R.C.(MD)No.674 of 2022

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