



Crl.R.C.(MD) No.685 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.685 of 2022

Sathianesan

... Petitioner/Petitioner

Vs.

State represented by
The Sub-Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari District.
(Crime No.33 of 2021)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 (1) of Criminal Procedure Code, to call for the records in Crl.M.P.No.4690 of 2021 on the file of the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District, dated 11.04.2022 and to set aside the same.

For Petitioner : Mr.S.C.Herold Singh,

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl. side)



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ORDER

This Criminal Revision Petition is directed against the order passed in Crl.M.P.No.4690 of 2021, dated 11.04.2022 by the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District, dismissing the petition filed under Sections 451 and 452 Cr.P.C.

2. It is seen from the records that on 09.02.2021, the respondent police officials said to have inspected the Hotel namely Hotel Thangam International, at P.P.M. Junction, Kaliyakkavilai, Kanyakumari District and found 191 Liquor bottles in the premises of the said hotel. In this connection, the respondent Police registered the case in Crime No.33 of 2021 for the alleged offence under Section 4(1)(aa), 4(1)(i) and 24 of Tamil Nadu Prohibition Act, 1937. The seized liquor bottles were produced before the Judicial Magistrate No.I, Kuzhithurai. The petitioner filed a petition in Crl.M.P.No.4690 of 2021 seeking interim custody of the liquors. The said petition was dismissed by the said Court, dated 11.04.2022. Challenging the same, the petitioner is before this Court.

3. Heard both sides and perused the materials available on record.



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4. It is seen from the records that the petitioner obtained necessary permission from the prohibition and Excise Department for running F.L.3/Hotel and to sell the liquor for serving the customers staying in the Hotel. It is also seen from the records that the alleged properties were duly purchased under the valid receipt from the TASMAL outlet only. Further, on the side of the prosecution, it is stated that the liquor is free from toxic substance.

5. The learned Magistrate by taking note of the seriousness of the offence alleged and also considering the objections raised by the prosecution and also the fact that there is possibility for the petitioner to commit the same offence, dismissed the petition.

6. When the matter is taken up for hearing today, the learned Government Advocate (Criminal Side) would submit that there are expired beer bottles and as such the petitioner is not entitled to get return of the same. But the prosecution has not raised any serious or specific objections for returning the remaining properties.



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7. Considering the above facts and circumstances of the case and also taking note of the fact that the only charge was selling the liquor beyond the time stipulated by the Government, this Court is inclined to grant interim custody of the property excluding the beer bottles.

8. Accordingly, this Criminal Revision is partly allowed and the order, dated 11.04.2022 made in Crl.M.P.No.4690 of 2021 on the file of the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District, with respect to the property excluding beer bottles, is set aside and shall return the other properties except the beer bottles which had already been expired to the petitioner on the following conditions :

- (a) the petitioner shall pay a sum of Rs.10,000/- (Rupees Ten Thousand only) to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172) and produce the receipt/acknowledgment before the learned Judicial Magistrate Court No.I, Kuzhithurai, Kanyakumari District ;
- (b) Further, the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a likesum to the satisfaction of the Judicial Magistrate



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(c) On compliance of clause (1) and (2), the properties shall be handed over to the petitioner for interim custody, on such condition the Judicial Magistrate thinks fit.

02.08.2022

Index : Yes/No
Internet : Yes/No
das

To:-

- 1.The Judicial Magistrate No.I,
Kuzhithurai, Kanyakumari District.
- 2.The Sub-Inspector of Police,
Kaliyakkavilai Police Station,
Kanyakumari 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
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