



W.P.(MD)No.16225 of 2022

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.08.2022

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

W.P.(MD)No.16225 of 2022

N.Kannan

... Petitioner

Vs.

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

2.The Inspector of Police,
Ervadi Dharga Police Station,
Ramanathapuram District.

... Respondents

PRAYER : Writ Petition filed under Article 226 of Constitution of India, praying for issuance of a Writ of Mandamus, directing the respondents to release the petitioner's vehicle Hero Honda Splendor Plus bike, bearing Reg.No.TN-45-AK-3844 seized by the 2nd respondent on 24.04.2020 and in the light of the petitioner's representations, dated 24.03.2022 and 08.07.2022.

For Petitioner : Mr.A.Vadivel

For Respondents : Mr.P.Subbaraj
Spl.Government Pleader



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ORDER

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This Writ Petition is filed praying for issuance of a Writ of Mandamus, to direct the respondents to release the petitioner's vehicle, viz., 'Hero Honda Splendor Plus' bike, bearing Reg.No.TN-45-AK-3844, seized by the 2nd respondent on 24.04.2020, by considering the petitioner's representations, dated 24.03.2022 and 08.07.2022.

2. The contention of the petitioner is that he is the owner of the vehicle viz., 'Hero Honda Splendor Plus' bike, bearing Reg.No.TN-45-AK-3844. The petitioner's nephew one Ilayaraj took the petitioner's vehicle for some urgent work, without the knowledge of the petitioner. On 24.04.2020, on a routine vehicle check, the 2nd respondent intercepted the vehicle in question, found the said Ilayaraja illegally transported toddy liquor, volume of 20 litters. Subsequently, a case in Crime No.104 of 2020, registered for offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act. Thereafter, the 1st respondent passed confiscation order dated 13.07.2020. The said Ilayaraja informed about the confiscation order to the petitioner.



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3. The learned counsel for the petitioner would submit that the petitioner, after coming to know the seizure of his vehicle, by the 2nd respondent, went to the 2nd respondent Police Station, with request to release his vehicle, the petitioner sent representations to the respondents, but there is no response. Finally, the 1st respondent passed confiscation order on 01.09.2020. The petitioner challenged the same before this Court in W.P(MD)No. 1102 of 2022, this Court, by order dated 25.01.2022, set aside the confiscation order passed by the 1st respondent, by directing the first respondent to redo the confiscation proceedings, on or before 08.02.2022. However, the 1st respondent not passed any fresh order till date. Further, the respondents failed to consider the petitioner's representations and not released the vehicle till date.

4. When the matter was taken up for hearing, the learned Special Government Pleader appearing for the respondents produced the order, dated 10.08.2022, passed by the Deputy Superintendent of Police, Ramanathapuram, to the Inspector of Police, Ramanathapuram, directing to release the vehicle of the petitioner.

5. I have heard the submissions made by the learned counsels appearing on either side and perused the materials on record.



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6. It is not in dispute that the petitioner is the owner of the two wheeler viz., 'Hero Honda Splendor Plus' bearing Reg.No.TN-45-AK-3844. On 24.04.2020, the petitioner's nephew one Ilayaraj took the petitioner's vehicle, without the knowledge of the petitioner. The 2nd respondent intercepted the vehicle, found the said Ilayaraja illegally transported toddy liquor in the vehicle, volume of 20 litters. Subsequently, a case in Crime No.104 of 2020, registered for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act.

7. Be that as it may, now the Deputy Superintendent of Police, Prohibition of Enforcement Wing, Ramanathapuram, through his communication, dated 10.08.2022, addressed to the the Inspector of Police, Ramanathapuram, the 2nd respondent herein, instructed him to get P.R. Number from the Court and to release the vehicle of the petitioner, as the petitioner is not an accused in this case, petitioner not involved in any crime in the record of Police Station and Criminal Tracking Network and Systems (CCTNS). Further the Motorbike of the petitioner to confiscation proceedings is pending or contemplated.



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8. In view of the above, the Writ Petition is disposed of with a direction to the second respondent Police to release the petitioner's two wheeler viz., 'Hero Honda Splendor Plus' bearing Reg.No.TN-45-AK-3844, within a period of one week from the date of receipt of a copy of this order. In the meanwhile, the petitioner to inform the Judicial Magistrate No.II, Ramanathapuram, by way of Form 95, if so required. The vehicle is kept for nearly 2 years in open exposing to vagaries of weather making the vehicle unusable. The petitioner will not transfer or sell the ownership of the vehicles without taking permission of the respondents authority, till finality reached in the case in Crime No.104 of 2020. No costs.

Index: Yes/No
MPK / SMN2

18.08.2022

To

- 1.The Deputy Superintendent of Police,
Prohibition of Enforcement Wing,
Ramanathapuram,
Ramanathapuram District.
- 2.The Inspector of Police,
Ervadi Dharga Police Station,
Ramanathapuram District.



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M.NIRMAL KUMAR, J.

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