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Crl.R.C.No.131 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.131 of 2023

Manikandan
Petitioner

...

Vs.

1. State rep. by the Additional Superintendent of Police,
Prohibition Enforcement Wing, Tiruvarur District.

2. State rep. by the Sub Inspector of Police,
Thiruthuraipoondi Police Station,
Tiruvarur District.
(Cr.No.547/2022)

...

Respondents

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to set aside the order dated 23.11.2022 passed in Crl.M.P.No. 4875 of 2022 by the Judicial Magistrate, Thiruthuraipoondi.

For Petitioner : Mr.M.Vijaya Ragavan

For Respondents : Mr.V.Meganathan



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Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 23.11.2022 passed in Crl.M.P.No.4875 of 2022 by the Judicial Magistrate, Thiruthuraipoondi and consequently, direct the respondent police to return the Mahindra Bolero Pick-up bearing Registration No.TN-63-AV-8831 to the petitioner/owner of vehicle.

2. It is the case of the petitioner that, he is the owner of Mahindra Bolero Pick-up bearing Registration No.TN-63-AV-8831; and a case in Crime No.547/2022 was registered for the offences punishable Sections 4(1)(a) r/w 4(1-A) of Tamil Nadu Prohibition Act against his driver namely Manikandan, alleging that he had transported 22.750 liters of illicit liquor in 29 bottles from Pondicherry; and his vehicle was seized by the respondent police. Further, the petitioner filed a petition in Crl.M.P.No.4875/2022 to return the vehicle, however, it was dismissed by the Trial Court, vide order dated 23.11.2022. Aggrieved over the same, this



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Criminal Revision Case has been filed.

3. The learned counsel for the petitioner submitted that, the petitioner is not an accused in the above case and he has no knowledge about the alleged transportation of illicit liquor. Hence, the impugned order passed by the Trial Court may be set aside and the respondent may be directed to return the vehicle to the interim custody of the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondents submitted that, pending petition before the Trial Court, the second respondent police, initiated confiscation proceedings and handed over the vehicle to the first respondent. He further submitted that the first respondent had issued show cause notices dated 26.10.2022 and 22.11.2022 to the petitioner, for which, the petitioner has given explanation. Therefore, since the confiscation proceedings is pending, the Trial Court has dismissed the petition and hence, the order passed by the Trial Court does not warrant any interference by this Court and pleaded to dismissal of the Criminal Revision Case.



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5. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.Side) and I have perused the materials on record.

6. It is an admitted fact that, pending petition in Crl.M.P. No.4875/2022 before the Trial Court, confiscation proceedings has been initiated and show cause notices were also sent to the petitioner. Further, the petitioner has also given explanation to the show cause notices. Therefore, this Court is of the view that the Trial Court has rightly dismissed the petition filed by the petitioner to return the vehicle, since the confiscation proceedings is already initiated, the Court has no power to exercise its power under Section 451 Cr.P.C. As such, the impugned order passed by the Trial Court does not warrant any interference by this Court.



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7. Accordingly, this Criminal Revision Case is dismissed. However, the petitioner is at liberty to appear before the Confiscation Authority seeking remedy.

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Index: Yes/No
Internet: Yes/No
mst

To

1. Judicial Magistrate, Thiruthuraipoondi.
2. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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