



W.P.(MD) No.5348 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 14.03.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.5348 of 2023

and

W.M.P.(MD) Nos.5004, 5005 and 5006 of 2023

Parthasarathy

.. Petitioner

Vs.

1.The Commissioner of Police,
Trichy City,
Trichy.

2.The Deputy Commissioner of Police,
Trichy City,
Trichy.

3.The Inspector of Police,
PEW, Trichy City,
Trichy.

.. Respondents

Prayer :- Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus, to call for the records pertaining to the order passed by the second respondent by his proceedings in Na.Ka.No.54/Ka.Thu/Thalamaiyidam/Thi.Ma/2022 dated 01.02.2023 and quash the same as illegal, consequently directing the first



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respondent to release the petitioner's Splendor Plus Bike bearing Reg.No.TN-48-S-9329 seized by the third respondent on 08.10.2022.

For Petitioner : Mr.T.Lenin Kumar

For Respondents : Mr.M.Vaikkam Karunanithi
Government Advocate

ORDER

The petitioner has invoked the extraordinary jurisdiction of this Court under Article 226 of the Constitution of India seeking release of his Splendor Plus Bike bearing Registration No.TN-48-S-9329 seized by the third respondent on 08.10.2022, after quashing the order of confiscation passed by the second respondent on 01.02.2023.

2. The facts are as follows:

The above referred vehicle belongs to the petitioner. While so, his vehicle was seized by the third respondent stating that one Manikandan carried 40 bottles of Black Pearl Brandy IMFL in the said two wheeler. A case has also been registered against the said Manikandan for offences under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937 (hereinafter referred to as “the Act”). On 10.10.2022, the petitioner had



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made a representation to the first respondent in person seeking release of his vehicle. However, no steps have been taken.

3. It is seen from the affidavit filed in support of the petition that earlier, the petitioner filed a writ petition for the very same relief. The writ petition was disposed of asking the petitioner to make a representation through proper channel and produce proof before this Court. Soon after the receipt of the representation by the first respondent, a show cause notice dated 21.11.2022 was issued by the second respondent as to why the vehicle should not be confiscated within 15 days from the date of receipt of the notice. To this, an explanation was given by the petitioner and when this Court was apprised of the developments, the petitioner was directed to approach the concerned Magistrate for relief.

4. When the petitioner had filed the application, as directed, before the Magistrate, the third respondent had produced an order dated 01.02.2023 passed by the second respondent stating that the vehicle has been confiscated. Hence, the present writ petition.



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5. The learned counsel for the petitioner would submit that before passing an order of confiscation dated 01.02.2023 under Section 14(4) of the Act, the petitioner has to be issued with a notice of enquiry and after hearing the parties, affording them a reasonable opportunity, the confiscation can take place. In the instant case, no opportunity for a hearing was given to the petitioner.

6. Heard the learned counsel on either side.

7. Further, the procedure under Section 14(4) of the Act for confiscation contemplates an opportunity of being heard as seen from clause (iii) to the first proviso of Section 14(4) of the Act. This opportunity has not been afforded to the petitioner, who had submitted his explanation dated 28.11.2022 to the show cause notice dated 21.11.2022. The impugned order does not refer to this explanation, which has been received by the third respondent. Therefore, the confiscation order dated 01.02.2023 passed by the second respondent in



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his proceedings bearing Na.Ka.No.54/Ka.Thu/Thalamaiyidam/ Thi.Ma/2022 is quashed. Admittedly, the police authorities have seized the liquor bottles, which have been transported and the preliminary investigation has also been concluded. In these circumstances, the vehicle shall be released to the petitioner, after obtaining an undertaking from the petitioner that the vehicle is produced as and when demanded by the third respondent.

8. With the above observations and direction, this Writ Petition is allowed. No costs. Consequently, connected miscellaneous petitions are closed.

14.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes

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P.T.ASHA, J.

abr

To

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