



W.P.(MD) No.9416 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 21.06.2023

CORAM:

THE HONOURABLE MS.JUSTICE P.T.ASHA

W.P.(MD) No.9416 of 2023

and

WMP(MD) No.8406 of 2023

Dharmalingam

.. Petitioner

Vs.

1.State represented through
Additional Superintendent of Police,
Prohibition Enforcement wing,
Sivagangai District.

2.The Inspector of Police,
Sipcot Police Station,
Manamadurai,
Sivagangai District.
(Crime No. 40 of 2022)

.. Respondents

Prayer : Petition filed under Article 226 of the Constitution of India, praying for issuance of Writ of Certiorarified Mandamus calling for the entire relevant records relating to the impugned order passed by the first respondent, vide Na.Ka.No.40/Koo/kaa.ka/mavi-vaa/siva/2022, dated 12.08.2022, and quash the same as illegal with violation of natural justice and consequently directing the respondents to release the petitioner's



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vehicle bearing Registration No.TN22-CS-2862 (Tavera Car) based on the representation dated 25.08.2022 within a stipulated time as fixed by this Court.

For Petitioner : Ms.R.Senthilkumar
For Respondents : Mr.D.Ghandiraj
Special Government Pleader

ORDER

This writ petition is filed to quash the order passed by the first respondent as illegal and a violation of principles of natural justice and consequently direct release of the petitioner's Tavera Car bearing Registration No.TN22-CS-2862, based on the petitioner's representation dated 25.08.2022.

2. On 13.06.2022, the second respondent-police, during the routine vehicle checkup, had stopped the petitioner's vehicle, which is driven by one Karthikeyan. They had seized 1199 liquor bottles near the SIPCOT bus stand at Manamadurai at about 2.30 a.m. Thereafter, an FIR was registered on the basis of the second respondent's complaint against the said Karthikeyan and others in Crime No.40 of 2022.



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3. The petitioner would submit that he is working as an Ambulance Driver in the Government Primary Health Hospital at Alakiyanayakipuram. The first accused was known to the petitioner in the hospital where he was working and he used to give his van at times for transporting medicines. Therefore, on 12.06.2022, the petitioner had given his vehicle to the said Karthikeyan, the first accused, who had informed the petitioner that he had wanted to visit his wife's mother's sister at Manalmelgudi. It is during this trip, that the petitioner's vehicle had been seized. The petitioner was called to the police station and he had appeared and given his statement. It was made clear to the respondents that the petitioner was in no way involved in transportation of the liquor. However, the first respondent though the investigation had been completed, passed the impugned order confiscating the vehicle without issuing any show cause notice as contemplated under the provisions of the Prohibition Act. Therefore, the petitioner has come forward with the above writ petition.



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4. Heard the learned counsel on either side.

5. A perusal of the impugned order clearly indicates that no prior notice has been given to the petitioner, which is clearly violative of provisions of Section 14(4) and Proviso (i), (ii) and (iii) to Section 14(4), which read as follows:

“Section 14(4).- Notwithstanding anything contained in sub-sections (1) to (3), the Collector or other Prohibition Officer in charge of the district or any other officer authorised by the State Government in that behalf is satisfied that an offence has been committed against this Act and whether or not a prosecution is instituted for such offence, he may, without prejudice to any other punishment to which the offender is liable under this Act, order confiscation of any animal, vessel, cart or other vehicle used in the commission of such offence:

Provided that, before passing an order of confiscation, the owner or the person from whom such animal, vessel, cart or other vehicle is seized, shall be given-



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(i) a notice in writing informing him of the grounds on which it is proposed to confiscate the animal, vessel, cart or other vehicle;

(ii) an opportunity of making a representation in writing within a reasonable time, not exceeding fourteen days, as may be specified in the notice, against the grounds of confiscation; and

(iii) a reasonable opportunity of being heard in the matter:”

6. Therefore, on this score, the impugned order has to necessarily be set aside and accordingly, is set aside. Therefore, this Writ Petition is allowed. Considering the fact that the investigation in relation to the vehicle has been completed, and the vehicle has been with the respondent for the over one year, the same shall be released within a period of four weeks from the date of receipt of a copy of this order. No costs. Consequently, connected miscellaneous petition is closed.

21.06.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes
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P.T.ASHA, J.

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To

- 1.The Additional Superintendent of Police,
Prohibition Enforcement wing,
Sivagangai District.
- 2.The Inspector of Police,
Sipcot Police Station,
Manamadurai,
Sivagangai District.

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