



Crl.R.C.(MD) No.612 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 22.06.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.612 of 2023

Sountharapandi

... Petitioner/Petitioner

Vs.

The Inspector of Police,
Prohibition Endowment Wing (PEW),
Theni,
Theni District.
(Crime No.353 of 2023)

... Respondent/Respondent

Prayer : This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records of the learned Judicial Magistrate Court, Theni in Cr.M.P.No.5139 of 2023 dated 08.06.2023 and set aside the same.

For Petitioner : Mr.C.Saravanakumar,

For Respondent : Mr.R.Sivakumar,
Government Advocate (Crl. side).



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ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No.5139 of 2023 dated 08.06.2023 on the file of the Judicial Magistrate Court, Theni, dismissing the petition filed under Sections 451 and 457 Cr.P.C., for returning of the vehicle.

2. It is not in dispute that the respondent police has registered a case in Crime No.353 of 2023 for the alleged offences under Sections 4(1)(aaa) and 24 of TN Prohibition Act against four persons and that they have seized a vehicle viz., Mahendira Bolero Pickup bearing Registration No.TN-60-BZ-1561 and the same was remanded.

3. The petitioner, claiming to be the owner of the said vehicle, has filed a petition under Sections 451 and 457 Cr.P.C., seeking return of the vehicle, but the learned Magistrate, by observing that confiscation proceeding is going to be initiated, has dismissed the application. Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.



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4. When the matter was taken up for hearing yesterday (21.06.2023), the learned Government Advocate (Criminal Side) appearing for the respondent submitted that there was an endorsement of Cholamandalam Investment and Finance Company Limited and the same was not redeemed. At this juncture, the learned counsel appearing for the petitioner submitted that he is ready to produce the original No Objection Certificate (NOC) and also RC book of the vehicle in dispute.

5. In pursuance of the same, the learned counsel appearing for the petitioner has produced the No Objection Certificate (NOC) given by the Cholamandalam Investment and Finance Company Limited and RTO letter.

6. The learned counsel appearing for the petitioner would submit that the vehicle bearing Registration No.TN-60-BZ-1561 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the vehicle is with the police from 27.04.2023 and that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the



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petitioner. He would further submit that the pendency of the confiscation proceedings is not a bar for return of the vehicle.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the respondent is going to initiate the confiscation proceedings.

8. Admittedly, as of now, no confiscation order was passed by the concerned authority.

9. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 08.06.2023 passed in CrI.M.P.No.5139 of 2023, by the learned Judicial Magistrate, Theni.

10. Accordingly, this Criminal Revision case is allowed and the order dated 08.06.2023 in CrI.M.P.No.5139 of 2023 in Crime No.353 of 2023 on the file of the learned Judicial Magistrate, Theni, is hereby set



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aside and the vehicle / Mahendira Bolero Pickup bearing Registration No.TN-60-BZ-1561, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

- (a) the petitioner shall execute a bond for a sum of **Rs.2,00,000/-** (Rupees Two Lakhs only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Theni;
- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Theni.;
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle; and
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

22.06.2023

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



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K.MURALI SHANKAR, J.

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To:-

1. The Judicial Magistrate,
Theni.
2. The Inspector of Police,
Prohibition Endowment Wing (PEW),
Theni,
Theni District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.612 of 2023**

Dated : 22.06.2023