



W.P.(MD)No.29411 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 15.12.2023

CORAM:

THE HONOURABLE MR.JUSTICE B.PUGALENDHI

W.P.(MD)No.29411 of 2023
and
W.M.P.(MD)No.25364 of 2023

Ananthi

... Petitioner

versus

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

2. The Inspector of Police,
Sivagangai Town Police Station,
Sivagangai District.
(Crime No.359 of 2022)

... Respondents

Writ Petition filed under Article 226 of the Constitution of India,
seeking for the issuance of Writ of Certiorari, to call for the records
relevant records of impugned order passed by the 1st respondent vide
Na.Ka.No.65/கூ.கா.க/மவி-வா/சிவ/2022 dated 16.12.2022 and
consequential order passed by the same respondent vide Na.Ka.No.65/



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கூ.கா.க/மவி-வா/சிவ/2022 dated 18.11.2023 and quash the same as illegal in the manner of Principle of violation of natural justice and against this Court order in W.P.(MD)No.26027 of 2022 dated 25.11.2022.

For Petitioner : Mr.R.Senthilkumar

For Respondents : Mr.B.Thanga Aravindh,
Government Advocate (Crl. Side)

ORDER

The order of confiscation of the vehicle bearing Reg.No.TN63 BM 230 dated 18.11.2023 is under challenge in this writ petition.

2. The case of the petitioner is that she is the owner of the Swift Desire Car bearing Reg.No.TN63 BM 8230. On 13.09.2022, her husband, namely, Thangam @ Thangaselvam, had taken the vehicle and when he was on his way, the Sub Inspector of Police, one Jeyabalan, has stopped the vehicle and sought for the vehicle records, at that time, a wordy quarrel arose between the petitioner's husband and police officials. Therefore, a case has been foisted as against the



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petitioner's husband in Cr.No.359 of 2022 on 13.09.2022 as if he has transported 60 bottles of liquor in the said Car. Thereafter, the first respondent has initiated proceedings under Section 14(4) of the Tamil Nadu Prohibition Act, 1937 and also confiscated the vehicle, vide his order dated 10.10.2022. Challenging the same, the petitioner has filed a writ petition before this Court in W.P.(MD)No.26027 of 2022. This Court, on 25.11.2022, has entertained the writ petition and set aside the impugned order dated 10.10.2022 that the authorities have failed to issue notice to the petitioner before initiating action under Section 14(4) of the Tamil Nadu Prohibition Act.

3. The learned counsel appearing for the petitioner submits that even after the order of this Court dated 25.11.2022 in W.P.(MD)No. 26027 of 2022, the respondents have not issued any notice to the petitioner and have also confiscated the vehicle, by order dated 18.11.2023. Aggrieved over the same, the present writ petition has been filed.



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WEB COPY 4. The learned counsel for the petitioner submits that the petitioner is not an accused in Crime No.359 of 2022. Even before the filing of final report in Cr.No.359 of 2022, the second respondent has hurriedly moved the proceedings for confiscation and got an order of confiscation dated 10.10.2022, without issuing notice to the petitioner/the owner of the vehicle. This Court has also set aside the order dated 10.10.2022 in W.P.(MD)No.26027 of 2022. Even thereafter, the respondents have proceeded with the confession proceedings and passed further order without issuing any notice to the petitioner.

5. The learned Government Advocate (Crl. Side) appearing for the respondents submits that the petitioner's husband is a history-sheeter and he is involved in the following cases.

1. Cr.No.758 of 2016 under Sections 147, 148, 294(b), 427, 448, 324, 307, 506(ii) IPC;
2. Cr.No.529 of 2017 under Section 392, 397,



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506(ii) IPC.

3. Cr.No.489 of 2015 under Sections 147, 341, 294(b) 323, 506(ii) IPC.

4. Cr.No.479 of 2019 under Sections 341, 147, 148, 294(b), 506(ii) IPC

5. Cr.No.255 of 2015 under Section 302 IPC.

6. The learned Government Advocate further submits that on the occurrence day, the petitioner's husband was found in possession of 60 bottles of liquor in the Car bearing Reg.No.TN63 BM 8230. Therefore, the said vehicle was seized by the respondent Police and proceedings were initiated under Section 14(4) of the Tamil Nadu Prohibition Act, 1937, for confiscation of the vehicle. According to the learned Government Advocate, notice was issued to the petitioner in the proceedings initiated under Section 14(4) of the Tamil Nadu Prohibition Act, 1937. The petitioner was served with a show cause notice dated 03.01.2023 and another notice dated 27.01.2023 and the same was acknowledged by her. Thereafter, the present impugned order has been passed.



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WEB COPY 7. This Court considered the rival submissions made.

8. The petitioner's vehicle bearing Reg.No.TN63 BM 8230 was seized by the respondent Police that her husband had transported 60 bottles of liquor in the said vehicle. Admittedly, the petitioner is not an accused in Crime No.359 of 2022 and the said case was also not charge sheeted. The vehicle was seized on 13.09.2022 and the confiscation proceedings was initiated on 10.10.2022. The earlier confiscation proceedings appears to be concluded without issuing any notice to the petitioner. Therefore, this Court, in the earlier writ petition filed by the petitioner in W.P.(MD)No.26027 of 2022, has disposed of the writ petition by setting aside the order dated 10.10.2022. Thereafter, a notice was issued to the petitioner on 16.12.2022. Though it is captioned as a show cause notice, it is in the form of intimation that the vehicle has already been confiscated. Thereafter, a final order has been passed on 18.11.2023. The content of the notice dated 16.12.2022 is



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not in the form of notice, calling any explanation for confiscation of the vehicle.

9. The petitioner has also made a specific averment as against the defacto complainant/the Sub Inspector of Police that there was a wordy quarrel between the petitioner and the police officials and therefore, a case has been foisted against her husband. The case of the respondents is that the petitioner's husband was in possession of 60 bottles of liquor. But, the liquor bottles have not been produced before the concerned Court and no final report has been filed in Cr.No.359 of 2022 so far.

10. Considering the facts that the possession of liquor bottles are not proved, the show cause notices were issued in the form of mere intimation and the charge sheet has not been filed so far, this Court is of the view that the respondents are not justified with an action of confiscation of vehicle. Therefore, the impugned orders dated



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16.12.2022 and 18.11.2023 are liable to be set aside.

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11. Accordingly, this writ petition is allowed and the impugned orders dated 16.12.2022 and 18.11.2023 are hereby set aside. No costs. Consequently, connected miscellaneous petition is closed.

15.12.2023

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NCC : Yes / No.

Index : Yes / No.

Internet : Yes / No.

To

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



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B.PUGALENDHI, J.

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