



WEB COPY



Crl.R.C.No.173 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.08.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.173 of 2022

L.Shanmugam

... Petitioner

Vs.

State Rep. by
Inspector of Police,
Prohibition and Enforcement Wing,
Perur, Coimbatore.
(Crime No.792 of 2021).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 & 401 of Criminal Procedure Code, to call for the records pertaining to the order dated 02.12.2021 in C.A.No.156 of 2021 on the file of the learned III Additional District and Sessions Court, Coimbatore, set aside the same and consequently set aside the confiscation order passed in C.No.38/ADSP/CWC/Veh.con/CBE/2021 dated 27.08.2021 directing the respondent to release the petitioner's vehicle i.e., Scorpio Car bearing Reg.No.TN-38-AL-5454, Engine No.BS64M73624, Chasis No.MAITB2BSL72A60996.

For Petitioner : Mr.K.Shanmuganathan

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor



ORDER

This criminal revision case has been filed to set aside the impugned order, dated 02.12.2021 in Crl.A.No.156 of 2021 passed by the learned III Additional District and Sessions, Coimbatore and consequently set aside the confiscation order passed in C.No.38/ADSP/CWC/Veh.con/CBE/2021, dated 27.08.2021 directing the respondent Police to confiscate the petitioner's vehicle *i.e.*, Scorpio Car bearing Reg.No.TN-38-AL-5454, Engine No.BS64M73624, Chasis No.MAITB2BSL72A60996.

2.Gist of the case is that the petitioner is the accused in Crime No.792 of 2021 which was registered on 14.06.2021 for offence under Sections 4(1)(b), 4(1)(g) & 4(1-A) of the Tamil Nadu Prohibition Act and Sections 269, 271, 291 of IPC and Section 3 of the Epidemic Diseases Act, 1897. The petitioner's vehicle *i.e.*, Scorpio Car bearing Reg.No.TN-38-AL-5454 was intercepted by the respondent Police and searched. During search, illicit liquor in a white colour plastic can found and seized.

3.The learned counsel for the petitioner submitted that the petitioner



has been falsely implicated in the above case and the vehicle was not used by him for any illegal activity. The case projected by the respondent Police as per FIR is that when the petitioner's car was intercepted, driver of the car stopped the vehicle and ran away from the scene of occurrence. On enquiry, it was found that owner of the car is one Sampath Kumar, son of Lakshmanan. At the time of search and seizure, the petitioner was affected with COVID-19 and he was under quarantine. The petitioner's vehicle seized from his farm house and thereafter, projected that in the vehicle illicit liquor transported. The petitioner, a Politician, belongs to opposition party, he used to conduct many Dharna against the undemocratic manner in which the ruling party functioning using muscle and Police power. Hence, a false case registered against the petitioner. He further submitted that show cause notice for confiscation proceedings received by the petitioner on 21.06.2021. After receipt of notice, the petitioner sent a detailed representation, dated 17.08.2021, but the same not properly considered and confiscation order was issued on 27.08.2021. Against which, the petitioner preferred an appeal before the learned III Additional District & Sessions Court, Coimbatore in Crl.A.No.156 of 2021 and the same was dismissed on 02.12.2021



confirming the confiscation proceedings.

WEB COPY

4.The primary contention of the petitioner is that the condition under Section 14(4) of the Tamil Nadu Prohibition Act, 1937 not followed before confiscating the petitioner's vehicle. Though the petitioner sent a detailed reply, the same was not considered by the confiscating authority. The right of paying confiscated amount and taking back proposed confiscation vehicle not given to the petitioner. He further submitted that the lower appellate Court failed to consider the petitioner's contention and without answering the same, dismissed the appeal. Hence, he prays for setting aside the impugned judgment.

5.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that FIR in Crime No.792 of 2021 registered against the petitioner by the respondent Police for offence under Sections 4(1)(b), 4(1)(g) & 4(1-A) of the Tamil Nadu Prohibition Act, 1937 and Sections 269, 271, 291 of IPC and Section 3 of the Epidemic Diseases Act, 1897. Thereafter, the Inspector of Police prepared



Crl.R.C.No.173 of 2022

Observation Mahazar, Rough Sketch in presence of witnesses and also examined the witnesses and recorded their statements. The petitioner filed Anticipatory Bail before this Court in Crl.O.P.No.10867 of 2021 and the same was allowed on 25.06.2021. During the course of investigation, the Inspector of Police produced seized properties before the learned Judicial Magistrate No.V, Coimbatore and the same was taken on file as PR.No.175 of 2021 dated 26.07.2021. Thereafter, the Inspector of Police sent the samples to the Forensic Science Lab, Chennai for chemical analysis and the report was received on 08.02.2022. On completion of investigation, Inspector of Police filed charge sheet against the petitioner before the learned Judicial Magistrate Court No.V, Coimbatore and the same was taken on file C.C.No.2059 of 2023 and the next date of hearing is 04.09.2024 for examination of LW1 to LW3.

6.He further submitted that steps taken to proceed the vehicle under Confiscation and the Additional Superintendent of Police, Prohibition Enforcement Wing, Coimbatore District initiated confiscation proceeding under Section 14(4) of Tamil Nadu Prohibition Act, 1937 in



Crl.R.C.No.173 of 2022

C.No.30/ADSP/CWC/Veh.Con/CBE/2021.

During proceedings, on

08.08.2021, the Additional Superintendent of Police, Prohibition Enforcement Wing, Coimbatore served notice to the petitioner. The confiscation order, dated 27.08.2021 shows that a show cause notice dated 08.08.2021 was sent to the petitioner and his reply was received on 19.08.2021. The contention of the petitioner is that he was not given opportunity to examine witnesses to establish that he was not involved in the offence. Thereafter, the Additional Superintendent of Police, Prohibition Enforcement Wing, Coimbatore passed the confiscation order on 27.08.2021. Challenging the same, the petitioner filed appeal before the learned III Additional District and Sessions Judge, Coimbatore in Crl.A.No.156 of 2021. He further submitted that the final order passed on 30.10.2021 by the Additional Superintendent of Police, Prohibition Enforcement Wing, Coimbatore as per Section 14(4) of the Tamil Nadu Prohibition Act, 1937 and the petitioner received the final order on 03.11.2021 and opportunity was given to the petitioner to pay the amount fixed in the final order within 7 days from the date of the final order. The petitioner failed to pay the amount and public auction was fixed on



08.12.2021 and vehicle was sold to a third party for a sum of Rs.1,58,120/-

by the auction Committee and amount remitted to government account. As per Section 14(4)(iii), reasonable opportunity was given to the petitioner to participate in the confiscation proceedings and the vehicle has been sold by the confiscation authorities by duly following the procedure contemplated under the Tamil Nadu Prohibition Act, 1937. Now the present auction purchaser started to use the vehicle. The points now raised have already raised in the appeal and the same was not considered finding no merits. Hence, he prays for dismissal of the criminal revision case.

7.Considering the submissions and on perusal of the materials, it is seen that in this case, the petitioner is very well participated in the confiscation proceedings, filed his reply and thereafter not participated in auction proceedings. Having participated in the confiscation proceedings, the petitioner should have participated in the auction proceedings, raised his objection and shown his interest to pay the auction amount to claim his vehicle. In this case, the petitioner failed to avail such option. The final order and notice discloses the same. Challenging the confiscation order, the



Crl.R.C.No.173 of 2022

filed an appeal in Crl.A.No.156 of 2021 and the learned III Additional District and Sessions Judge, Coimbatore considered the submissions on either side and dismissed the appeal finding that the intention of the petitioner in the appeal is not challenging the confiscation proceedings but attempting to try a parallel trial creating grounds for the criminal case in C.C.No.2059 of 2023.

8.In view of the above, this Court does not find merits consideration in the submissions of the learned counsel for the petitioner. Accordingly, this criminal revision case stands dismissed confirming the impugned order, dated 02.12.2021 in Crl.A.No.156 of 2021 passed by the learned III Additional District and Sessions Judge, Coimbatore.

13.08.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
Internet: Yes/No

vv2

To

Page No.8 of 10



Crl.R.C.No.173 of 2022

1.The III Additional District & Sessions Judge,
Coimbatore.

2.The Additional Superintendent of Police,
Prohibition Enforcement Wing, Coimbatore.

3.The Public Prosecutor,
Madras High Court.



WEB COPY



Crl.R.C.No.173 of 2022

M.NIRMAL KUMAR, J.

vv2

Crl.R.C.No.173 of 2022

13.08.2024