



Crl.R.C.No.398 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.398 of 2024

Varatharaj

... Petitioner

Versus

The State Rep. by
The Inspector of Police,
PEW Madurantakam Police Station,
Chengalpattu District.
(Crime No.870 of 2023)

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to call for the records connected with order dated 31.01.2024 made in Crl.M.P.No.777 of 2023 on the file of the District Munsif cum Judicial Magistrate, Cheyyur, Chengalpattu and set aside the same as illegal.

For Petitioner : Mr.D.Balaji

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

The petitioner, who is the owner of the vehicle Scorpio LX (M Silver) car bearing Registration No.TN-22-CC-1011 which was seized by the respondent police in connection with Crime No.870 of 2023 for offences under Sections 4(1)(aaa) 4(1-A) of Tamil Nadu Prohibition Act (Transporting) @ 4(1)(aaa) of Tamil Nadu Prohibition Act (Transporting), had filed a return of property petition before the learned District Munsif cum Judicial Magistrate, Cheyyur, Chengalpattu in Crl.M.P.No.777 of 2023. The same was dismissed by the Trial Court by an order dated 31.01.2024. Against which, the present revision is filed.

2.The contention of the learned counsel for the petitioner is that the petitioner is the owner of the vehicle and A1 in this case is his relative. He would submit that his relative had taken the vehicle for urgent family use and thereafter the petitioner came to know that the vehicle was seized from his relative by the respondent police during road check for transporting liquor bottles without valid license. Thereafter, a case in Crime No.870 of 2023 registered for the offence under Sections 4(1)(aaa) 4(1-A) of Tamil



Nadu Prohibition Act (Transporting) The petitioner has nothing to do with the above case. He further submitted that after seizure of the vehicle now it is kept in open space exposing to vagaries of weather, and thereby, the value of the vehicle is getting diminished. Further the petitioner's vehicle is used for his avocation. He further submitted that the Hon'ble Apex Court in the case of “*Sunderbhai Ambalal Desai Versus State of Gujarat* reported in *AIR 2003 SC 638*”, had given guidelines for return of vehicle and articles to the owner. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle.

3.Learned Additional Public Prosecutor filed a counter and submitted that on 18.10.2023, the then Inspector of Police received a secret information about transport of liquor bottles from Pondicherry. Based on the secret information, the Inspector of Police along with her police team went to the scene of occurrence near Pudhupet village, at that time, one suspicious person came in Scorpio car bearing registration No.TN-22-CC-1011 and on enquiry, it came to know that the accused person was in possession of liquor bottles illegally transporting from Pondicherry to Tamil



Nadu. The liquor bottles were seized along with the vehicle, samples collected, sent for chemical examination and the petitioner was arrested.

Thereafter, the vehicle was produced before the appropriate authority for initiating confiscation proceedings. The authority initiated confiscation proceedings invoking Section 14(4) of the Tamil Nadu Prohibition Act and if the petitioner is really aggrieved, he has to participate in the confiscation proceedings, put forth his case and get back his vehicle. Accordingly, he prays for dismissal of the petition.

4.Considering the submissions made and on perusal of the material, it is not in dispute that the petitioner is the owner of the vehicle, viz., Scorpio LX (M Silver) car bearing Registration No.TN-22-CC-1011. It is also not in dispute that the confiscation proceedings is yet to be completed. The petitioner has not participated in the confiscation proceedings. Section 14 of the Tamil Nadu Prohibition Act contemplates various stages as to how the confiscation to be initiated and completed. In view of the same, the petitioner is directed to participate in the confiscation proceedings, make his representation within a period of two weeks from the date of receipt of copy



of this order and thereafter, the confiscation authority shall provide an opportunity of hearing to the petitioner and thereafter proceed with the proceedings.

5.This Court in the case of “***Sakthidevi Versus State by The Inspector of Police, Thittachery Police Station, Nagapattinam District in Crl.R.C.No.501 of 2011***”, considered the case of “***David Vs. Sakthivel, Inspector of Police-cum-Station House Officer reported in 2010 1 MLJ (Crl.) 929***” and ordered return of seized vehicle to the owner, which is being consistently followed, despite initiation of the confiscation proceedings. Further, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become immobile. In view of the aforesaid reasons, this court is inclined to set aside the order passed by the learned Judicial Magistrate No.II, Kancheepuram District.

6.Accordingly, this Criminal Revision Case is allowed and the impugned order dated 31.01.2024 passed by the learned District Munsif



cum Judicial Magistrate, Cheyyur, Chengalpattu in Crl.M.P.No.777 of 2023

is set aside. It is not in dispute that the vehicle after seizure was produced before the learned Judicial Magistrate and thereafter, confiscation proceedings initiated. In view of the same, the learned District Munsif cum Judicial Magistrate, Cheyyur, Chengalpattu is directed to return the vehicle Scorpio LX (M Silver) car bearing Registration No.TN-22-CC-1011 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Cheyyur, Chengalpattu;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

(iii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;



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(iv) The petitioner shall also give an undertaking that he will

not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(v) The petitioner shall participate in the confiscation proceedings if any initiated and shall produce the vehicle before the confiscation authority. This order is subject to the outcome of the confiscation proceedings.

12.03.2024

Index : Yes/No

Speaking order/Non-speaking order

Neutral citation : Yes/No

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M.NIRMAL KUMAR, J.

cse

To

- 1.The District Munsif cum Judicial Magistrate,
Cheyyur, Chengalpattu
- 2.The Inspector of Police,
PEW Madurantakam Police Station,
Chengalpattu District.
- 3.The Public Prosecutor,
High Court, Madras.

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