



Crl.R.C.(MD)No.491 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED: 22.05.2024

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THE HON'BLE MRS.JUSTICE S.SRIMATHY

Crl.R.C.(MD)No.491 of 2024

Manikandan

... Petitioner

Vs

State through the
Inspector of Police,
PEW Palani,
Dindigul District.
(Crime No.184 of 2024)

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records relating to the order passed in Crl.M.P.No.1789 of 2024 on the file of the Judicial Magistrate, Palani dated 15.04.2024 and set aside the same and order interim custody of the TATA ACE bearing Registration No.TN-20-CW-4783 with the petitioner, which was seized by the respondent.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

This Revision is filed challenging the impugned order passed in Crl.M.P.No.1789 of 2024, dated 15.04.2024 by the Judicial Magistrate, Palani.

2. The petitioner claims to be the owner of the TATA ACE bearing Registration No.TN-20-CW-4783. On 13.02.2024, the respondent police intercepted the vehicle viz., TATA ACE bearing Registration No.TN-20-CW-4783 and seized the vehicle as the same was used for transporting banned tobacco products and registered a case in Crime No.184 of 2024 for the offences under Section 328 IPC and Sections 6(a) and 24(1) of Cigarette and other Tobacco Products Acts, 2003. The petitioner, being the the owner of the seized vehicle, filed Crl.M.P.No.1789 of 2024 before the Judicial Magistrate, Palani, who, by the order impugned herein, dismissed the petition on the ground that the petitioner may use his vehicle for doing the very same offence again.



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3. The learned counsel appearing for the petitioner submitted that the learned Magistrate has failed to consider that there was no contraband recovered from the petitioner's vehicle to establish the involvement of his vehicle in the alleged offence. Moreover, the vehicle has been stationed in an open yard and has been kept idle and uncared under all weather conditions and natural calamities, due to which, the value of the vehicle will be drastically depreciated. Further, the petitioner is ready to abide by any condition that may be imposed on him for the release of vehicle and give an undertaking that he will not involve the vehicle in similar type of offences again. Hence he prayed for granting interim custody of the vehicle.

4. The learned Additional Public Prosecutor appearing for the respondent submitted that the respondent police seized the vehicle from the accused Hariprakash and also recovered banned tobacco products. Now the vehicle has been produced before the Judicial Magistrate and it has been received under R.P.R.No.36 of 2024 and the vehicle has been handed over to the police for safe custody. He further submitted that if the vehicle is returned to the petitioner, he may re-use the same for committing further criminal activities. Thus, he prayed for dismissal of this petition.



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5. I have considered the arguments advanced on both sides and perused the materials available on record.

6. The petitioner claims that he is the owner of the TATA ACE bearing Registration No.TN-20-CW-4783 and admittedly, the vehicle has been seized by the respondent police and the same has been produced before the Judicial Magistrate, Palani and it is now under the custody of police. In such circumstances, keeping the four wheeler in idle will damage the vehicle.

7. Now the petitioner seeks return of vehicle since the vehicle was stationed in an open yard and subject to natural calamities and unconditional weather conditions.

8. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** reported in ***AIR 2003 SC 638***, the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long



period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

9. Considering the nature of the offence involved and also considering the dictum of the Supreme Court cited supra, I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

10. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No.TN-20-CW-4783 to temporary custody of the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;*
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;*
- iii. the petitioner shall execute a bond for a sum of Rs.50,000/-*



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*(Rupees fifty thousand only) before the Judicial Magistrate,
Palani;*

- iv. the petitioner shall give an undertaking that he will not use
the vehicle for any illegal activities in future;*
- v. the petitioner shall take photograph of the vehicle; and*
- vi. the petitioner shall also produce the vehicle as and when
required before the court below and before the respondent
police.*

11. Accordingly, the Criminal Revision is allowed.

22.05.2024

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

To

1.The Judicial Magistrate,
Palani.

2.The Inspector of Police,
PEW Palani,
Dindigul District.

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3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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S.SRIMATHY, J.

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