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Crl.R.C.(MD).No.540 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.06.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.R.C(MD). No.540 of 2024

Sasikumar

... Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
Budalur Police Station,
Thanjavur District.
Crime No.146/2024

... Respondent/Respondent

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the order passed by the learned Judicial Magistrate, Thiruvaiyaru, in Crl.M.P.(MD)No.1478 of 2024 dated 09.05.2024 in Crime No.146 of 2024 on the file of the respondent police and allow this Criminal Revision Petition.

For Petitioner : Mr.G.Karnan

For Respondent : Mr.M.Muthumanikkam
Government Advocate(Crl.Side)



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ORDER

The Criminal Revision Case has been filed to set aside the order in Crl.M.P.No.1478 of 2024 in Crime No.146 of 2024 dated 09.05.2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru.

2.The petitioner claims to be the owner of the vehicle bearing Reg.No.TN 49 CF 2820. The respondent Police intercepted the vehicle bearing Reg.No.TN 49 CF 2820 and seized the vehicle as the same was used for transporting of 74 liquor bottles illegally without any valid licence or permit and registered a case in Crime No.146 of 2024 for the offences under Sections 4(1)(a) and 4 (1-A) of Tamil Nadu Prohibition Act.

3.It is not in dispute that the petitioner has approached the learned learned Judicial Magistrate, Thiruvaiyaru, for returning of the said vehicle in Cr.M.P.No. 1478 of 2024 and the learned Judicial Magistrate, Thiruvaiyaru, vide order dated 09.05.2024, has dismissed the petition on the ground that the petitioner has not produced any transmit pass. Challenging the same, the above Criminal Revision came to be filed before this Court.



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4.The learned counsel appearing for the petitioner would submit that the petitioner's vehicle was never involved in any illegal activity. The petitioner's friend misused his bike without his knowledge. The respondent police without verifying the same has foisted the above false case.

5.The learned Government Advocate (Criminal Side) appearing for the State would submit that the vehicle in question, is not having any previous case.

6.This Court considered the rival submissions and also perused the records and the impugned order.

7.In this case, the vehicle was seized on 14.04.2024. Till date, the confiscation proceeding is not initiated. The vehicle is keeping in the open place from 14.04.2024 onwards . Further, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated. Considering the over all circumstances of the case, this Court is inclined to allow the revision by following the principle of law laid down by the Honourable Supreme Court, in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in **2002 (10) SCC 283**.



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8. Accordingly, this Criminal Revision Petition is allowed and the order dated 09.05.2024 in Cr.M.P.No.1478 of 2024 on the file of the learned Judicial Magistrate, Thiruvaiyaru, is hereby set aside and the learned Judicial Magistrate, Thiruvaiyaru, is directed to release the vehicle of the petitioner forthwith on the following conditions:-

(i) the petitioner is directed to deposit a sum of Rs.30,000/- (Rupees Thirty Thousand only) as non-refundable for the vehicle to the credit of the **Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Account No.:30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832 on or before 29.07.2024, otherwise the impugned order shall stand restored.**

(ii) on such deposit the petitioner shall execute a bond to the value of the vehicle mentioned in the insurance certificate existed on the date of occurrence before the learned Judicial Magistrate, Thiruvaiyaru;

(iii) The petitioner shall file an affidavit with specific



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undertaking that they shall not involve in any prohibition offence or any other offence and vehicle also will not be used in the prohibition offence or any other offence.

(iv) the petitioner shall produce a certified copy of the R.C.Books of above vehicle;

(v) the petitioner shall not alienate and shall not make any alteration in the vehicle.

(vi) The photograph of the vehicles is to be taken properly and the petitioner shall produce their vehicles as and when required by the Courts below.

12.06.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
jbr



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To

1. The learned Judicial Magistrate,
Thiruvaiyaru.
2. The Inspector of Police,
Budalur Police Station,
Thanjavur District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
4. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court,
Madurai.



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K.K.RAMAKRISHNAN, J.

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