



WEB COPY



Crl.R.C(MD)No.1198 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.11.2024

Pronounced on : 12.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1198 of 2024

Saroja

... Petitioner

Vs.

State rep. by
The Sub Inspector of Police,
Kovilpatti Prohibition Enforcement Wing,
Thoothukudi District.

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records relating to the order, dated 04.11.2024 in Crl.M.P.No.10842 of 2024 in Crime No.486 of 2024 on the file of the Judicial Magistrate No.1, Kovilpatti, set aside the same and consequently direct the Judicial Magistrate No.1, Kovilpatti to hand over the vehicle bearing Reg.No.TN-72-CC-3922 to the petitioner for interim custody.

For Petitioner : Mr.M.Prabu

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



WEB COPY



Crl.R.C(MD)No.1198 of 2024

ORDER

This Criminal Revision Case is directed against the order, dated 04.11.2024, passed in Crl.M.P.No.10842 of 2024 on the file of the learned Judicial Magistrate No.I, Kovilpatti, dismissing the petition filed by the petitioner U/s. 497 and 503 of BNSS for return of Mahindra Goods Carrier bearing registration No.TN-72-CC-3922.

2.The brief facts of the case:

On 04.10.2024 at about 09.00 hours the respondent police while on patrol duty, inspected the Mahindra Goods Carrier bearing registration number TN 72 CC 3922 and found illegal transport of 1896 liquor bottles without any valid license or permit, and thereby the vehicle was seized. A case was registered in Crime No.486 of 2024 U/s.4(1)(A), 14A of Tamil Nadu Prohibition Act, 2024. The petitioner claims to be the owner of the vehicle and approached the Judicial Magistrate Court No.I, Kovilpatti by filing the petition in Crl.M.P.No.10842 of 2024 for return of the said vehicle and the learned Judicial Magistrate has dismissed the petition vide his order dated 04.11.2024.

3. Aggrieved by the order of dismissal, the petitioner has come forward with this present Criminal Revision Case.



WEB COPY



4. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the vehicle. Her vehicle is used for own and rental purposes. The petitioner is solely depending on the income of the vehicle. The petitioner has no nexus with the alleged occurrence. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure on 04.10.2024. If the vehicle is kept in open place, due to exposure of sun and rain, the value of the vehicle would get deteriorated and therefore, interim custody of the vehicle may be granted to the petitioner. The petitioner is ready to produce the property document.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that the petitioner's vehicle was seized for illegal transport of 1896 liquor bottles with the accused and confiscation proceedings was initiated and notice was also sent to the concerned parties. If the vehicle is granted interim custody, the petitioner would



alienate the vehicle and also the confiscation proceedings will be affected.

7. On hearing both, it is clear that the vehicle was seized on 04.10.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims to be the owner of the vehicle, which is not also disputed by the respondent police. If the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody. The Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties by the police.

8. The learned Judicial Magistrate has dismissed the petition mainly on the ground that confiscation proceedings was already initiated. However, it is not in dispute that as of now confiscation order was not passed by the concerned authority. Already in the case of pendency of confiscation proceeding, the learned single Judge of this Court has passed an order of interim custody in Crl.R.C.(MD)No.520 of 2022, dated 30.06.2022. Further, 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, even though pending initiation of the confiscation proceedings. The petitioner has no previous case, which is also admitted by the respondent side. Considering the over all facts and circumstances of the case, this Court is inclined to allow this revision subject to conditions.

9. Accordingly, this Criminal Revision Case is allowed, and the order dated 04.11.2024 passed in Crl.M.P.No.10842 of 2024 on the file of the learned Judicial Magistrate No.I, Kovilpatti, is hereby set aside. The Mahindra Goods Carrier bearing registration No.TN-72-CC-3922 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings on the following conditions:

(i)The petitioner is directed to deposit a sum of **Rs.25,000/- (Rupees Twenty Five Thousand only)** as non-refundable deposit for the said vehicle to the credit of the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.30700985498, State Bank of India, Tiruchuli, IFSC Code: SBIN0003832;



(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.4,00,000/- (Rupees Four lakhs only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate No.I, Kovilpatti;

iii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of Head Clerk of the learned Judicial Magistrate No.1, Kovilpatti at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iv) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.1, Kovilpatti;

(v) The petitioner shall produce the vehicle before the Court and before the respondent police as and when required.

(vi)The petitioner shall participate to the confiscation proceedings which is initiated and pending and shall produce the vehicle before the confiscation authority.



WEB COPY



Crl.R.C(MD)No.1198 of 2024

(vii) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case or till disposal of the confiscation proceeding.

(viii) The petitioner shall cooperate with the trial Court for disposal of the case and also to complete the confiscation proceedings.

10. The order passed in this revision will not be a bar to the authorities concerned to proceed with the confiscation proceedings.

This order is subject to the outcome of the confiscation proceedings.

12.12.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD

To

- 1.The Judicial Magistrate No.1,
Kovilpatti.
- 2.The Sub Inspector of Police,
Kovilpatti Prohibition Enforcement Wing,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C(MD)No.1198 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1198 of 2024

12.12.2024