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Crl.R.C(MD)No.1300 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 27.11.2023

Pronounced on : 28.02.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1300 of 2023

Ramakrishnan

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.

... Respondent

PRAYER : This Criminal Revision has been filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order passed in Cr.M.P.No. 3311 of 2023, dated 19.10.2023 in Cr.No.178 of 2023 on the file of the Judicial Magistrate Court, Kadaladi, Ramanathapuram District and direct the respondent to return the petitioner's property, two wheeler bearing registration No.TN-65-AV-5353 Honda X Blade.

For Petitioner : Mr.Raja.Karthikeyan

For Respondent : Mr.K.Sanjay Gandhi
Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case is filed to set aside the order dated 09.10.2023 passed in Cr.M.P.No.3311 of 2023, dated 19.10.2023 on the file of the District Munsif-cum-Judicial Magistrate Court, Kadaladi, Ramanathapuram District and to direct the respondent to grant interim custody of the two wheeler bearing registration No.TN-65-AV-5353 Honda X Blade, which was seized by the respondent in Crime No.178 of 2023.

2.The brief facts of the case:

The revision petitioner is the sole accused in this case. The prosecution alleged that on 25.08.2023 at 13.00 hours when the defacto complainant was searching vehicles in Pulanthai Vilaku of Sayalkudi, the petitioner who was coming in a two wheeler bearing Registration No.TN-65-AV-5353 Honda X Blade was in possession of 35 liquor bottles without any license or permit. The case was registered for the offence under Section 4(1)(a) of TNP Act. The vehicle was seized by the respondent police. The revision petitioner is the owner of the said vehicle. Therefore, the revision petitioner filed a petition in Crl.M.P.No.3311 of 2023 before the learned District Munsif-cum-Judicial Magistrate, Kadaladi, Ramanathapuram District. The petition was resisted by the respondent police. After hearing both the learned District Munsif-cum-Judicial



Magistrate, Kadaladi, Ramanathapuram District dismissed the petition on 19.10.2023. Being aggrieved by the order, the revision petitioner preferred this Criminal Revision Case.

3. Heard both side and perused the records in this Criminal Revision Case.

4. The learned counsel for the revision petitioner has submitted that the petitioner is the the owner of the vehicle and he has not involved in this case. He purchased the alleged liquors for Kedavettu function at Kalamman temple, Kanikoor. The seized liquor bottles were purchased in authorized TASMAL Shop at Sayalkudi. The bottles were seized 3 kilometers from the temple. There is no TASMAL Shop between Kanikoor and Sayalkudi. There is no personal gain in the purchase and transportation of bottles. Without remanding property before the concerned Court, the prosecution agency handed over the vehicle for confiscation proceeding on 25.09.2023, which is violation of Section 14(4) of TNP Act. The petitioner needs his two wheeler for daily use. The petitioner's vehicle has been kept idle in open place from the date of seizure. The vehicle will get ruined by sun light and rain and it would lose its value. The petitioner has no previous case. The learned counsel relied on the order passed in W.P.No.7909 of 2020.



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5. The learned Government Advocate (Crl.side) submitted that the petitioner illegally transported 35 bottles of liquor in his two wheeler. The vehicle was seized and remanded before the concerned Judicial Magistrate Court under RPR.No.207 of 2023 and the same was handed over to the Deputy Superintendent of Police on 25.11.2023 for initiating confiscation proceedings and the same was initiated. If the vehicle is returned, the petitioner would continue the offence of this similar nature. Therefore, he strongly opposed this petition.

6. On hearing both it is clear that the revision petitioner is the sole accused in this case for the alleged offence that the petitioner was found in possession of 35 liquor bottles in his two wheeler bearing Registration No.TN-65-AV-5353 Honda X Blade. It is not in dispute that the purchased liquors are TASMAC liquors of various brands. The revision petitioner stated that the liquor was purchased for religious function. The vehicle was seized and kept in open place, which was disputed by the respondent police. There is no dispute that the petitioner is the owner of the vehicle. The petitioner's vehicle was seized by the respondent police on 25.08.2023. The petitioner alleged that the vehicle was in open place from the date of seizure.



7. The Hon'ble Supreme Court issued guidelines in **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties by the police. Further, this Court in the case of **Sakthidevi vs. 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 of confiscation proceedings. The revision petitioner has no previous case, which is also admitted by the respondent side. In the above circumstances, this Court is inclined to allow this Criminal Revision Case with conditions.

8. In the result, the Criminal Revision Case is allowed and the order passed in Cr.M.P.No.3311 of 2023, dated 19.10.2023 on the file of the District Munsif-cum-Judicial Magistrate Court, Kadaladi, Ramanathapuram District is set aside. The vehicle in question in this case is ordered to be returned to the petitioner on interim custody on the following conditions:

(i) The petitioner shall execute a bond for Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Kadaladi, Ramanathapuram District;



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(ii) The petitioner shall deposit the Original R.C.Book of the vehicle before the trial Court;

(iii) The petitioner shall submit photographs of the vehicle along with Compact Disc duly certified under Section 65 B of the Indian Evidence Act;

(iv) The petitioner shall co-operate with the confiscation proceeding which is initiated and pending, and produce the vehicle before the confiscation authority;

(v) The petitioner shall not dispose or alienate the vehicle till the disposal of the case or till the disposal of the confiscation proceeding if any taken;

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

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

28.02.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

- 1.The District Munsif-cum-Judicial Magistrate Court,
Kadaladi,
Ramanathapuram District.
- 2.The Inspector of Police,
Sayalkudi Police Station,
Ramanathapuram.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1300 of 2023

28.02.2024