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Crl.R.C(MD)No.1053 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 31.01.2025

Pronounced on : 02.04.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1053 of 2024

Sathish Kumar

... Petitioner

Vs.

1.The State of Tamil Nadu rep.by
The Inspector of Police,
PEW Dindigul Police Station,
Dindigul District.
(Crime No.725 of 2024)

2. P.Saminathan

... Respondents

*(R2 is impleaded as per order of the Court, dated
27.01.2025 in Crl.M.P(MD)No.511 of 2025 in
Crl.R.C(MD)No.1053 of 2024)*

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, 2023, to call for the records pertaining to the order passed by the Judicial Magistrate, Nilakottai in Cr.M.P.No.4074 of 2024, dated 23.07.2024 and set aside the same and consequently direct the Judicial Magistrate, Nilakottai to return the S.P.S.Travels Sleeper Bus bearing Registration No.NL 01 B 1811 to the petitioner.

For Petitioner	: Mr.K.Navaneetha Raja
For R1	: Mr.M.Vaikkam Karunanithi Government Advocate (Crl.side)
For R2	: Mr.N.Jeyaram Sidharth



ORDER

WEB COPY This Criminal Revision Case is filed against the order, dated 23.07.2024, passed in Cr.M.P.No.4074 of 2024 on the file of the learned Judicial Magistrate, Nilakottai, dismissing the petition filed by the petitioner U/s.451 of Cr.P.C. for return of bus bearing Registration No.NL 01 B 1811, which was seized by the respondent police in Crime No.725 of 2024.

2.The brief facts of the case:

The prosecution alleged that costly liquor bottles were illegally transported through the bus bearing No. NL 01 B 1811 from Bangaluru to Madurai without any license or permission on 06.06.2024. A case was registered for the alleged offence under Sections 4(1)(aaa) and 4(1A) of the TN Prohibition Act. The vehicle was seized by the respondent police. The bus bearing registration number NL 01 B 1811 belongs to the SPS Travels. The petitioner, who is the manager of the SPS Travels, has filed the petition in Crl.M.P.No.4074 of 2024 before the learned Judicial Magistrate, Nilakottai, for interim custody of the bus. The petition was resisted by the respondent police. After hearing both sides, the Judicial Magistrate, Nialkottai, dismissed the petition on 23.07.2024. Being



aggrieved by the order, the petitioner preferred this criminal revision case.

3. The owner of the bus has been impleaded as second respondent.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the first respondent and the learned counsel for the second respondent and perused the records in this Criminal Revision Case.

5. The learned counsel appearing for the revision petitioner has submitted that the bus in question is not involved in this case. The bus belongs to SPS Travels. The petitioner or the second respondent is not an accused in the case. The bus was hired by other persons. As per F.I.R. contents, it is stated that the accused brought the liquor bottles for the marriage function of his relative. The petitioner has no nexus with the alleged occurrence. It is not the case of the prosecution that the petitioner has taken part in the alleged occurrence. The petitioner Travels is having source of income by hiring the bus. Without the bus, the petitioner's earnings are affected. Without remanding the property before the concerned Court, the prosecution agency handed over the vehicle for



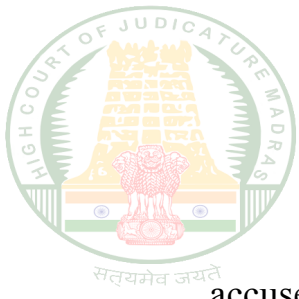
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confiscation proceedings on 15.07.2024, which is violation of the TN Prohibition Act. The petitioner's vehicle was kept idle in open place from the date of seizure and the vehicle will get ruined by sunlight and rain and it would lose its value. The petitioner has no previous case.

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6. The learned Government Advocate (Crl.side) for the first respondent submitted that the petitioner illegally transported bottles of liquor in the bus in question. The vehicle was seized and remanded before the concerned Judicial Magistrate Court and the same was handed over to the Deputy Superintendent of Police for initiating confiscation proceedings and the same was initiated on 15.07.2024. If the vehicle is returned to the petitioner he would continue the offence of this similar nature. Therefore, he strongly opposed this petition.

7. The learned counsel for the second respondent filed an affidavit stating that he is the owner of the bus and RC book stood in his name. He further stated that he has no objection to hand over the bus to the petitioner, who is the manager of SPS Travels and he is ready to execute bond.



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8. On hearing both sides, it is clear that the petitioner is not the accused in this case for the offence alleged in the FIR. It is not disputed that the purchased liquors are of various brands, which were brought by the driver of the bus, who stated that the liquor was purchased for the marriage function. The vehicle was seized and is kept in open place which is not disputed by the respondent police. There is no dispute that the second respondent is the owner of the vehicle and the petitioner is the manager of SPS Travels. The vehicle was seized by the respondent police on 06.06.2024. The petitioner alleged that the vehicle is in open place from the date of seizure. 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. 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 bus is not involved in any other previous case, which is also admitted by the respondent side. In the above circumstances, this Court is inclined to allow this criminal revision with conditions.



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9. Accordingly, this Criminal Revision Case is allowed and the order, dated 23.07.2024 passed in Crl.M.P.No.4074 of 2024 on the file of the Judicial Magistrate Court, Nilakottai, is set aside. The bus in question bearing Registration No. NL 01 B 1811 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings on the following conditions.

(i) The petitioner and the second respondent shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate Court, Nilakottai;

(ii) The petitioner shall deposit the original Registration Certificate of the vehicle before the trial Court and also file an affidavit with specific undertaking that he will not use the vehicle for any illegal activities in future or any other offence;

(iii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the learned Judicial Magistrate, Nilakottai, at the cost of the petitioner and the petitioner's signature to be obtained in the backside of the photographs and the petitioner shall submit photograph of the vehicle along with Compact



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Disc duly certified under Section 65 B of the Indian Evidence Act to be kept in case bundle for the purpose of marking them as material objects during trial;

(iv) The petitioner and the second respondent shall participate to the confiscation proceeding which is initiated and pending and shall produce the vehicle before the confiscation authority as and when required;

(v) The petitioner and the second respondent shall not dispose or alienate the vehicle till the disposal of the case or till 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.

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

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

.04.2025

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



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To

- 1.The Judicial Magistrate,
Nilakottai.
- 2.The Inspector of Police,
PEW Dindigul Police Station,
Dindigul District.
(Crime No.725 of 2024)
- 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.1053 of 2024

02.04.2025