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Crl.R.C(MD)No.1310 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 11.12.2024

Pronounced on : 06.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1310 of 2024

K.Palanikumar

... Petitioner

Vs.

The Sub Inspector of Police,
Prohibition & Enforcement
Wing (PEW) Police Station,
Dindigul District.
(Crime No.725 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order in Cr.M.P.No.4761 of 2024, dated 04.09.2024 passed by the Judicial Magistrate Court, Nilakottai and set aside the same as illegal.

For Petitioner : Mr.S.Sankar

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case is filed against the order, dated 04.09.2024, passed in Crl.M.P.No.4761 of 2024 on the file of the learned Judicial Magistrate, Nilakottai dismissing the petition filed by the petitioner U/s.503 of BNSS for return of two wheeler bearing registration No.TN 58 CZ 4419.

2.The brief facts of the case:

On 06.06.2024 at about 10.00 a.m., the respondent police while checking vehicles at Tollgate on Dindigul to Madurai road, stopped and checked the bus bearing registration No.NL 01 B 1811 wherein they found illegal transportation of 720 liquor bottles without any valid permission, whileso, the petitioner came there with his two wheeler bearing registration No.TN 58 CZ 4419 to purchase liquor. Hence, the respondent police arrayed the petitioner as an accused/Accused No.3 and also seized the vehicle. A case was registered in Crime No.725 of 2024 U/s.4(1)(aaa) and 4(1-A) of the TNP Act. The petitioner claims to be the owner of the vehicle and approached the Judicial Magistrate Court, Nilakottai by filing the petition in Crl.M.P.No.4761 of 2024 U/s.503 of BNSS and the learned Judicial Magistrate has dismissed the said petition vide order, dated 04.09.2024.



3. Aggrieved by the order of dismissal, the petitioner has come forward with this present criminal revision case.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) 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. He has not involved in this case and his vehicle was not involved in the crime. As per the prosecution case, the bus was only intercepted and liquor bottles were seized on the allegation of illegal transport without any permission. The petitioner's vehicle was seized from his house only and not from the occurrence place. 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. If the vehicle is 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.



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6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner's vehicle was seized for illegal transportation of liquor bottles and confiscation proceedings was initiated. 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 sides, it is clear that the vehicle was seized on 06.06.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims that he is 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.

8. The petitioner states that the bus only was intercepted by the respondent police and his vehicle was not inspected by the respondent police and his vehicle was recovered from his residence. The vehicle has been remanded before the concerned Judicial Magistrate Court, which is not disputed. Whether the vehicle is involved in the alleged offence or



not can be decided only after trial and after adducing evidence.

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. The learned Judicial Magistrate has dismissed the petition mainly on the ground that confiscation proceedings was initiated. Already in the case of pendency of confiscation proceeding, the learned single Judge of this Court has passed the order of interim custody in Crl.R.C(MD)No.1300 of 2023, dated 28.02.2024 on the same footing by 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 overall facts and circumstances of the case, this Court is inclined to allow this revision subject to conditions.

8. Accordingly, this Criminal Revision Case is allowed, and the order dated 04.09.2024 passed in Crl.M.P.No.4761 of 2024 on the file of the learned Judicial Magistrate, Nilakottai, is hereby set aside. The two



wheeler bearing registration No.TN 58 CZ 4419 is ordered to be returned to the petitioner on interim custody subject to the confiscation proceedings on the following conditions.

(i) The petitioner shall execute a bond for a sum of **Rs.1,00,000/- (Rupees One lakh only)** with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate, Nilakottai;

ii) 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 Judicial Magistrate Court, Nilakottai 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;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Nilakottai;

(vi) The petitioner shall produce the vehicle before the learned Judicial Magistrate, Nilakottai once in a month i.e., on the first working day of every month and also before the Court and before the respondent police as and when required.



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

(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.

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

06.02.2025

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

VSD

To

1.The Magistrate Court,
Nilakottai.

2.The Sub Inspector of Police,
Prohibition & Enforcement
Wing (PEW) 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.1310 of 2024

06.02.2025