
(1970) 08 DEL CK 0032
In the Delhi High Court

Chander Bhan

APPELLANT

Vs

State

RESPONDENT

Date of Decision : 04-08-1970

Acts Referred:

Citation : (1971) CriLJ 167

Hon'ble Judges : M.R.A Ansari, J

Bench : Single Bench

Judgement

R.A. Ansari, J.—One Jit Singh is being prosecuted in two cases, one under the Punjab Excise Act, 1914, and the other Under Sections 279/ 337, Penal Code. The prosecution case against him is that he was driving car No. DLK 4200 on 21-5-1970 when the police tried to intercept him as they suspected that he was smuggling liquor. In order to escape from being apprehended, Jit Singh is said to have driven the car in a rash and negligent manner thereby causing hurt to a pedestrian. He was ultimately apprehended and 96 bottles of liquor were recovered from the car. The car was also seized and produced before the Court. Shri Chander Bhan, the petitioner, who is said to be the owner of the car filed two applications before the Court for the release of the car and for the custody of the car pending disposal of the two cases. One of these applications was dismissed summarily on 27-6-1970. The other application was dismissed on 2-6-1970 and the ground stated by the learned Magistrate in this order were that it was reported that the car had been used on previous occasions for smuggling liquor. The petitioner thereupon filed a revision petition before the Additional Sessions Judge, Delhi, and the latter has submitted a report to this Court with the recommendation that the order of the learned Magistrate be set aside, and that the learned Magistrate be directed to deliver the vehicle to the petitioner on his executing a sapurdginama in such amount as the learned Magistrate may deem reasonable.

2. The learned Counsel for the State does not oppose the recommendation made by the learned Sessions Judge. The ground on which the learned Magistrate

dismissed the petitioner's applications, namely, that the car is said to have been used on previous occasions also for smuggling liquor is not a valid ground for refusing to deliver the custody of the vehicle to the petitioner, who is admittedly the owner of the car and who is himself not being prosecuted for smuggling illicit liquor. While on the one hand there is every reason of the vehicle getting damaged if it is retained in the custody of the Court till the cases are disposed of, on the other hand there is no risk involved in delivering custody to the vehicle to the petitioner. If the vehicle is required either for the purpose of identification or if the learned Magistrate ultimately confiscates the vehicle, the petitioner can always be directed to produce the vehicle for that purpose and sufficient security may be taken from him for the production of the vehicle when called upon to do so.

3. I accept the recommendation of the learned Additional Sessions Judge and direct the learned Magistrate to deliver the vehicle to the petitioner on his executing a sapurdginama in such an amount as the learned Magistrate deems fit and on the usual terms as to production whenever required to do so, Ordered accordingly.