

(2004) 10 MAD CK 0032

In the Madras High Court

Case No : Criminal Original Petition (M.D.) No. 3387 of 2004

G. Chandramohan

APPELLANT

Vs

State by Inspector of Police, Prohibition Enforcement Wing

RESPONDENT

Date of Decision : 15-10-2004

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 451

Citation : (2005) 1 CTC 746 : (2005) 1 LW(Cri) 93

Hon'ble Judges : M. Thanikachalam, J

Bench : Single Bench

Advocate : M. Karunanithi, for the Appellant; A. Ramar, Government Advocate, for the Respondent

Judgement

M. Thanikachalam, J.—The Petitioner, who is accused in Cr. No. 985 of 2002 on the file of the respondent, appears to have involved in a

prohibition offence, in which the Mahendra Van bearing registration No. TN 49 J 1569 was also involved which was seized. Claiming interim

custody of the vehicle, a petition was filed, which was dismissed and later confirmed by the Sessions Judge. Thereafter, invoking the jurisdiction u/s

482, Cr.P.C., this petition has been filed.

2. The learned Government Advocate (Crl. Side) opposes the return of the vehicle on the ground that investigation is pending.

3. The fact that investigation is pending may not be a ground to refuse the return of the vehicle since return of the vehicle to the petitioner will not in

any way hinder further investigation. Even if the vehicle is required, on notice, the petitioner may be directed to produce the vehicle, which cannot

be denied. On the other hand, without returning vehicle if it is left exposed to hot sun and rain, only skeleton will remain at the end of the trial,

which could not be used for any purpose. Without considering these facts, as if the vehicle is required for investigation, both the Courts below have

dismissed the application for return of the vehicle, which appears to be not sound. It is also not the case of the prosecution at present that the

vehicle has been ordered to be confiscated by initiating proceedings. Even if any proposal is initiated for confiscation of the vehicle, interim custody

will not be a bar. Even if confiscation proceedings are initiated ,appropriate orders could be passed, directing the petitioner to produce the vehicle.

In that view of the matter, to save the vehicle, I am inclined to order return of the vehicle for interim custody to the petitioner on the following

conditions:

(i) The petitioner executes a bond for a sum of Rs. Three lakhs in cash before the District Munsif cum Judicial Magistrate, Papanasam;

(ii) Produce proof of ownership of the vehicle, and

(iii) Files affidavit of undertaking stating that -

(a) he will not alienate, encumber or change the physical features of the vehicle;

(b) he will produce the vehicle on the first working day of every month before the District Munsif cum Judicial Magistrate, Papanasam until further

orders from this Court.

This petition is disposed of accordingly.