

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

Criminal Appeal No 126 of 2022
[Arising out of SLP (Crl) No 9802 of 2021]

Syed Basheer

Appellant

Versus

**The State represented by the Sub-Inspector
of Police**

Respondent

ORDER

- 1 Leave granted.
- 2 This appeal arises from a judgment of a Singh Judge of the High Court of Judicature at Madras dated 29 September 2021.
- 3 The appellant instituted a criminal revision under Sections 397(1) and 401 of the Code of Criminal Procedure, 1973 for challenging an order of Judicial Magistrate No 2, Salem dated 23 August 2021 and for the return of a vehicle, being TATA 407 (Turbo) Tempo bearing Registration No KA-01-C-8853. The vehicle was seized in connection with Case Crime No 178/2021 registered at Karuppur police station, the allegation being that the vehicle was used for the illegal transportation of liquor bottles.

- 4 The Single Judge by the impugned order directed the Judicial Magistrate to order the return of the vehicle to the appellant on the following conditions which are set out in paragraph 7 of the order:

“7. Considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to natural calamities, this Court directs the learned Judicial Magistrate - II, Salem, to return the vehicle “TATA 407 (Turbo) TEMPO” bearing Reg.No.KA-01-C-8853 to the petitioner, on the following conditions:-

- (i) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;
- (ii) The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;
- (iii) The petitioner is directed to deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only), as non-refundable deposit through RTGS/NEFT in favour of the Joint Secretary & Treasurer, Chief Minister’s Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof, the vehicle shall be returned;
- (iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;
- (v) The petitioner shall participate in the confiscation

proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.”

- 5 The appellant is aggrieved by the imposition of condition No (iii) above, requiring him to deposit a sum of Rs 1 lakh as a non-refundable deposit in the Chief Minister’s Public Relief Fund.
- 6 Notice was issued on 3 January 2022, when the condition imposed in paragraph 7(iii) of the impugned order was stayed. In pursuance of the notice, Dr Joseph Aristotle, learned Standing Counsel has appeared on behalf of the State of Tamil Nadu.
- 7 We have heard Mr G Sivabalamurugan, learned counsel in support of the appellant and Dr Joseph Aristotle, learned counsel for the State.
- 8 In our considered view, while the High Court was justified in directing the release of the vehicle and imposing the condition Nos (i), (ii), (iv) and (v), there was no warrant to impose a requirement of deposit of a non-refundable amount of Rs 1 lakh in the Chief Minister’s Public Relief Fund. Such a direction was not based on any statutory provision and was hence not warranted.
- 9 We accordingly allow the appeal and set aside the condition No (iii) contained in paragraph 7 of the impugned judgment and order of the High Court dated 29 September 2021.
- 10 The appeal shall accordingly stand disposed of.

11 Pending applications, if any, stand disposed of.

.....J.
[Dr Dhananjaya Y Chandrachud]

.....J.
[Dinesh Maheswhari]

New Delhi;
January 24, 2022
CKB

ITEM NO.15

Court 4 (Video Conferencing)

SECTION II-C

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No.9802/2021

(Arising out of impugned final judgment and order dated 29-09-2021 in CRLRC No.593/2021 passed by the High Court of Judicature at Madras)

SYED BASHEER

Petitioner(s)

VERSUS

**THE STATE, REP. BY THE SUB - INSPECTOR
OF POLICE**

Respondent(s)

**(With appln.(s) for I.R. and IA No.164805/2021-EXEMPTION FROM
FILING C/C OF THE IMPUGNED JUDGMENT)**

Date : 24-01-2022 This petition was called on for hearing today.

CORAM :

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD
HON'BLE MR. JUSTICE DINESH MAHESHWARI**

For Petitioner(s)

Mr. G. Sivabalamurugan, AOR

For Respondent(s)

**Dr. Joseph Aristotle S., AOR
Ms. Preeti Singh, Adv.
Ms. Nupur Sharma, Adv.
Mr. Sanjeev Kumar Mahara, Adv.**

**UPON hearing the counsel the Court made the following
O R D E R**

- 1 Leave granted.
- 2 The appeal is disposed of in terms of the signed order.
- 3 Pending applications, if any, stand disposed of.

**(CHETAN KUMAR)
A.R.-cum-P.S.**

**(SAROJ KUMARI GAUR)
COURT MASTER**

(Signed order is placed on the file)