

IN THE COURT OF PRINCIPAL DISTRICT AND SESSIONS JUDGE,

DINDIGUL DISTRICT

Present: Thiru.V.Padmanabhan, M.A., M.L., D.H.,
Principal District and Sessions Judge.
Dindigul.

Thursday, this the 3rd day of September, 2026.

Criminal Appeal No.121 of 2025.

(CNR No.TNDG01-005714-2025)

Under whose order of confiscation of property issued by which police officer this Criminal Appeal is preferred.	Deputy Superintendent of Police, Prohibition of Enforcement Wing, Dindigul.
---	---

Confiscation Proceedings Order Number with date	C.No.06/Confiscation/DSP-PE/DGL.DT/2025 dated 04.11.2025.
Criminal Appeal No.	C.A.No. 121 of 2025.
Name of the appellant/accused No.1.	Boopathi Rajkumar(45/2025) (A2) S/o Chinnaraj, Annamalaiyar Mills Colony, Aalamarathupatti, Kummampatti, Dindigul District.
Name of the respondent/ complainant	1. State: Inspector of Police, Prohibition Enforcement Wing, Dindigul. Cr.No. 80 of 2025. 2. State : Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul District: 3. The Public Prosecutor, Dindigul.
Date of Order	04.11.2025.
Result of the Confiscation Order.	In the result, under section 14(4) of the Tamil Nadu Prohibition Act, 1937, an order is hereby

	issued to confiscate the two- wheeler vehicle, Hero Splendor, bearing registration number TN 57 BL 3801 to the Government of Tamil Nadu.
Whether the criminal appeal is allowed, or modified or confirmed. :	In the result, the appeal is dismissed and the order passed by the Deputy Superintendent of Police, Prohibition of Enforcement Wing, Dindigul in C.No.06/Confiscation/DSP- PE/ DGL. DT/ 2025 dated 04.11.2025 is hereby confirmed.

Date of, or on which

Presentation : 27.11.2025

1. Filing : 02.12.2025

2. Last Hearing : 18.08.2026

3. Judgment : 03.09.2026

This Criminal Appeal coming before this Court on 18.08.2026 for final hearing in the presence of Thiru.S.Venugopal, Advocate for the appellant/ accused and of Thiru.T.Sivachandran, Public Prosecutor for the State and upon hearing the arguments of both sides and on perusing the records and having stood over till this date for consideration, this Court delivering the following:

JUDGMENT

The Memorandum of Appeal is filed by the appellant/accused person U/s 14(5) of Prohibition Act and U/s 415(3) of BNSS Act, 2023 to set aside the Confiscation Proceedings passed by the Deputy Superintendent of Police, Prohibition of Enforcement Wing, Dindigul in C.No.06/Confiscation/DSP- PE/ DGL. DT/ 2025 dated 04.11.2025 in respect of the two-wheeler vehicle Hero Splendor, bearing registration number TN 57 BL 3801 involved in Cr.No.80 of 2025 of Prohibition Enforcement Wing, Dindigul.

2. **The averments of the Criminal Appeal in brief are as follows:**

(a) The petitioner is the owner of the two wheeler bearing registration number TN 57 BL 3801 and R.C. book also stands in the name of the petitioner. The said vehicle was seized by the Prohibition Enforcement Wing, Dindigul in Cr.No.80 of 2025 in a case registered in Cr.No.80 of 2025 U/s 4(1)(A) of TNP Act. The petitioner is the accused in this case. The vehicle was wrongly seized in this case. The Deputy Superintendent of Police, Enforcement Wing, Dindigul failed to consider the representation of the petitioner that if the vehicle was kept idle in the custody of the respondent police and also exposed to sun and rain and further there is also reasonable apprehension of missing important parts of the vehicle and as a result, it is no doubt that the condition of the vehicle would be deteriorated day-by-day and in such event, the petitioner would be put into great hardship and irreparable loss. It is not in dispute that the petitioner is owner of the vehicle. The Deputy Superintendent of Police, Enforcement Wing, Dindigul did not conduct enquiry properly and passed order against the law. Hence this appeal.

3. According to prosecution on 04.09.2025 the police personnel attached with the Prohibition Enforcement Wing, on receipt of secret information involved in vehicle check up on Madurai – Dindigul road. At about 5.00 p.m. when they were conducting vehicle check up near Natham bypass diversion both A1 and A2 came in a two wheeler with two cardboard boxes. On search, it is found that the cardboard box contained 25 brandy bottles. When the concerned police officer enquired, A1 voluntarily gave confession statement and he recorded the same. Thereafter, he seized the 2 wheeler and the liquor bottles. In pursuant to the said confession statement when A1 was taken to his house, he identified the car bearing registration number TN 59 AX 3276 which was parked in front of his house. On search of car, it is found that totally 603 bottles were kept and the police officer seized the liquor bottles and the vehicle. Whereupon confiscation proceedings were initiated in respect of vehicles involved in the case incident and after enquiry, the Deputy Superintendent of Police passed order to confiscate the said vehicles.

4. Grounds of Appeal :

1. The order issued by the Deputy Superintendent of Police, Prohibition Enforcement, Dindigul, is against natural justice and law. The said order is legally and fairly not sustainable.
2. On behalf of this appellant, a proper written explanation was sent by post on 18.10.2025, but without considering it or examining the facts, the Deputy Superintendent of Police, Prohibition Enforcement, Dindigul, has arbitrarily and wrongly passed this order.

3. The appellant is the owner of the two wheeler involved in this case. The appellant never used the said two-wheeler for any illegal activities at any point in time. The said two-wheeler was wrongfully included in the case and has been left in the open air from 04.09.2025 until today for over 43 days. No prohibited liquor was found in the said two-wheeler, and no liquor bottles were seized from the said vehicle as stated by the police in the case. If the said vehicle remains in the open air, it will get damaged. The appellant has raised objections for confiscation of the vehicle to the government, but the Deputy Superintendent of Police, Prohibition Enforcement, Dindigul, failed to notice this and has issued a wrong order.

4. The Deputy Superintendent of Police, Prohibition Enforcement, Dindigul, has issued an order against the law without conducting a proper inquiry and without following legal procedures.

5. This appellant / 2nd accused is filing this petition within one month from the date the said two wheeler was confiscated. If the two wheeler bearing registration number TN 57 BL 3801, belonging to the appellant / 2nd accused, is handed over to the appellant, the appellant / 2nd accused undertakes that he will not change its color, sell it, or create any encumbrance on it, and further undertakes to produce it before the court without fail whenever ordered by the court.

6. Therefore, this appeal petition may be allowed, the Confiscation proceedings order passed by the Deputy Superintendent of Police, Prohibition Enforcement, Dindigul, on 04.11.2025 may be set aside, and an order may be issued to hand over the two wheeler bearing registration number TN 57 BL 3801, which is the case property belongs to the appellant / 2nd accused, to his custody.

5. Point for consideration:

Whether the Criminal Appeal has to be allowed and the two wheeler bearing registration number TN 57 BL 3801 to be handed over to the appellant on interim custody?

6. On Point:

Heard both sides. Records perused. As per the prosecution the appellant was arrayed as 2nd accused. At the time of incident, the appellant along with the co-accused person were proceeding in a two wheeler with two cardboard boxes containing liquor bottles. The police party rounded them and arrested them. Then the two wheeler, liquor bottles and a car were recovered based upon the A1's confession statement.

7. The appellant filed this appeal against the confiscation order passed by the Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul in respect of vehicle seized from the appellant.

8. The contention of the appellant is that the Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul not properly conducted enquiry and failed to consider if the

vehicle was kept idle in the custody of the respondent police and if exposed to sun and rain, there is also reasonable apprehension of missing important parts of the vehicle and as a result, the condition of the vehicle would be deteriorated day-by-day and in such event, the appellant would be put into great hardship and irreparable loss. The appellant is ready to furnish sufficient surety and vehicle may be returned to him on interim custody.

9. It is not in dispute that the confiscation proceedings was already initiated by concerned authority and order was passed to confiscate the vehicle. From perusal of records, it is seen that the vehicle was used to commit the offence and it is specifically contended on prosecution that already confiscation proceedings were completed after giving sufficient opportunity to the petitioner.

10. A perusal of entire records, it is seen that before passing confiscation proceedings by the Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul a show cause notice was issued to the petitioner as a owner of the vehicle and he also participated in it. Further, it reveals that after giving sufficient opportunity and considering the material available before him, the Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul passed confiscation order. Now the petitioner wants to set aside the said order and also seeking custody of the vehicle.

11. At this stage this court wants to incorporate the relevant guide lines and principles laid down by our Hon'ble High court, in the decision reported in **Rajendran Vs. State rep. by the Inspector of police, Thiruthangal police station, Virudhunagar District (Crl. R.C.(MD) No.800 of 2023)** case.

12. In the said case our Hon'ble High Court discussed about the return of property while confiscation proceedings is pending. In the said case our Hon'ble High Court held as follows:

“ 6. It is a well settled principle that when the confiscation proceeding is initiated, the petition under Section 451 of Cr.P.C., to seek interim custody is not maintainable. The same was fortified in the following judgments:

(a) State of Madhya Pradesh v. Uday Singh. reported in 2020 12 SCC 733, held as follows:

23. Subsequently in 2004 in Sujit Kumar Rana [State of W.B.v. Sujit Kumar Rana, (2004) 4 SCC 129 : 2004 SCC (Cri) 984] another two-Judge Bench of this Court dealt with the applicability of Section 482 CrPC for quashing of proceedings for confiscation of forest produce under the provisions of the Forest Act, 1927, as amended in relation to the State amendments to inter alia, confer a power of seizure and confiscation and to enact a bar of jurisdiction of other courts and tribunals notwithstanding anything contained in CrPC. This Court held: (SCC p. 139, para 31)

"31. ... Once, however, a confiscation proceeding is initiated; in terms of Section 59-G of the Act, the jurisdiction of the criminal court in this behalf stands excluded. The criminal court although indisputably has the jurisdiction to deal with the property which is the subject-matter of offence in terms of the provisions of the Code of Criminal Procedure but once a confiscation proceeding is initiated, the said power cannot be exercised by the Magistrate."

Once the criminal court had no power to deal with the property seized under the Act, the High Court was held to have no

jurisdiction under Section 482 CrPC to quash proceedings for confiscation of forest produce.

(b) ***David Vs.Sakthivel*** reported in **2010(1) LW CrL.129**, held as follows:

1. *Whenever seizure of properties involved in the commission of offence under prohibition Act, exercise of power if not automatic. Court should afford sufficient opportunity to the prosecution to inform the Court about the steps taken by the Investigating agency. Keeping in view the spirit of Section 14(4) of TNP Act, Court on its own should as-certain whether any confiscation proceedings has been initiated and the stage of confiscation proceedings.*

2. *After affording sufficient opportunity to the prosecution and only after ascertaining about the steps taken for initiation of confiscation proceedings, Court could exercise its discretion under Sections 451 or 457 Cr.P.C., Court could judiciously Empathy Sympathy part 1 exercise its discretion with due care and caution keeping in view the spirit of Section 14(4) of TNP Act. Exercise of discretion under Sections 451 and 457 Cr.P.C., is only after affording sufficient opportunity to the prosecution to get instructions. Subordinate Courts are directed to insist the Assistant Public Prosecutor/Public Prosecutor to file written memo as to the steps taken under Section 14(4) of TNP Act or otherwise could only on receipt of written memo, Court could proceed to exercise its power under Section 451 and 457 of Cr.P.C.,*

3. *In case if the Court orders interim custody of vehicle, the order should be speaking order recording reasons to order interim custody of the vehicle. In case if the Court orders interim custody of*

the vehicle, Court should obtain necessary undertaking from the owner of the vehicle to produce the vehicle as and when directed and send copy of undertaking to the District Collector/Prohibition Officer in charge of the District or other authorized officer in that behalf by the Government along with copy of the order passed by the Court.

(c) *Mohammede Shakul Hameed Vs. The state of Tamil Nadu in Crl.R.C.(MD).No.103 of 2018:*

"..... From a reading of the above guidelines (David Vs.Sakthivel) the Division Bench has clearly stated that before passing an order under Section 451 and 457 of the Code of Criminal Procedure, the Magistrate should ascertain whether confiscation proceedings have been initiated and the stage of confiscation proceedings. Division Bench has further stated that opportunity must to afforded to the prosecution and only after ascertaining about the steps taken for initiation of confiscation proceedings, Court could exercise its discretion under Section 451 and 457 of Code of Criminal Procedure. In other words, if no steps have been taken for initiation of confiscation proceedings, then, it is open to the Court to exercise the powers under Section 451 or 457 of the Code of Criminal Procedure. In the Division proceedings, after a vehicle is seized, the Investigating agency should have to take steps for initiation of confiscation proceedings. If once confiscation proceedings have been initiated by the appropriate authority, the Court may not have the power to exercise powers under Section 451 or 457 of the Code of Criminal Procedure. Thus, the power of the Court to pass orders under Section 451 and 457 of the Code of Criminal Procedure will arise only during the state when steps are not being taken for initiation of confiscation proceeding.

7. From the above law laid down by the Hon'ble Supreme Court as well as this Court, it is clear that after initiation of the confiscation proceedings, the petition under Section 451 Cr.P.C., to seek interim custody of the vehicle, etc., is not maintainable. Since confiscation proceeding has been initiated in this case, the order of the learned trial Judge, is in accordance with law. The confiscation proceedings initiated by the competent authority shall be completed within a period of one month from the date of receipt of a copy of this order.”

12. In the above judgment our Hon’ble High Court specifically held that when the confiscation proceedings is pending, the petition seeking interim custody is not maintainable, as per the principles laid down in the various cases. As already indicated here in this case also according to the prosecution confiscation proceedings was passed. Admittedly the petitioner is arrayed as accused. In such circumstances this court comes to the conclusion that principles laid down by the said case is squarely applicable to the facts and circumstances of the case and the vehicle could not be returned to the petitioner.

14. Considering the above discussions and in the interest of justice this Court comes to the conclusion that no interference is warranted in respect of confiscation proceedings of Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul C.No.06/Confiscation/DSP-PE/DGL.DT/2025 dated 04.11.2025 and the same is hereby confirmed and the appeal is dismissed.

In fine, Criminal appeal is dismissed and the confiscation proceedings of Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul C.No.06/Confiscation/DSP-PE/DGL.DT/2025 dated 04.11.2025 is hereby confirmed.

Dictated to the Executive Assistant, transcribed and typed by him through computer, corrected and pronounced by me in open Court, this the 3rd day of September, 2026.

Principal District and Sessions Judge,
Dindigul.

Principal District and Sessions Court,
Dindigul.

Judgment in C.A.No.121/2025

Dt.03.09.2026.

	Principal District and Sessions Court, Dindigul.
	Criminal Appeal No.121 of 2025
	Dt.03.09.2026
	In fine, Criminal appeal is dismissed and the confiscation proceedings of Deputy Superintendent of Police, Prohibition Enforcement Wing, Dindigul C.No.06/Confiscation/DSP-PE/DGL.DT/2025 dated 04.11.2025 is hereby confirmed. Principal District and Sessions Judge, Dindigul.

