

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :16.10.2015

Coram

THE HONOURABLE MR. JUSTICE B. RAJENDRAN

Criminal Revision Case No.1110 of 2015

Kanagaraj

.. Petitioner/A4

Versus

State rep.by
The Inspector of Police
Tholasampatty Police Station
Omalar Taluk
Salem District.

.. Respondent/Complainant

Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. as against the order dated 11.09.2015 passed by the learned Sessions Judge [Mahila Court], Salem in C.M.P.No.543 of 2015 seeking return of vehicle, viz., Hero Honda Splender Plus bearing Registration No.TN-30 BY-9101. (Engine No.HAI 0EFAHL 29232 and Chasis No.MBLHA 10 EYAHM 00074)

For Petitioner : Mr.P.Mani

For Respondent : Mr.V.Arul
Government Advocate (Crl.side)

ORDER

The petitioner has filed the above Criminal Revision case challenging the order dated 11.09.2015 passed by the Court below in rejecting the application filed by the petitioner under Sections 451 and 457 of Cr.P.C. for return of vehicle, namely, Hero Honda Splender Plus bearing Registration No.TN-30 BY-9101.

2. The respondent-police seized the vehicle from the petitioner in connection with the case in Crime No.223 of 2015 for the commission of alleged offence under Section 366(A) IPC and Sections 3 r/w 4 of Protection of Sexual Offences Act-2012 on the allegation that the petitioner has used the vehicle for illegal purpose and was kept under illegal detention in the respondent police station. The petitioner filed a petition before the Court below under Sections 451 and 457 of the Criminal Procedure Code seeking custody of the vehicle. Since the same was dismissed, the petitioner has filed this revision case.

3. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle in question and he has been arrayed as A4 in the matter. He would further submit that after seizure, the vehicle is parked in the police station in the open place and it is exposed to sun, rain and dust. If

the custody of the vehicle is not handed over to the petitioner, the value of the vehicle will be diminished as he has purchased the same by obtaining loan from one Palaniraja Finance. The learned counsel also submitted that he is willing to produce the vehicle as and when required and he will not alienate the same till the disposal of the case. Therefore, the learned counsel appearing for the petitioner prayed this Court to allow this Criminal Revision case.

4. I have also heard the learned Government Advocate (Criminal Side) appearing on behalf of the first respondent and perused the materials available on record.

5. In the decision of this Court reported in Gajendran vs. State, through Inspector of Police, Civil Supplies CID, Madurai (2008) 6 CTC 846 it was held that valuable properties need not be unnecessarily kept in the Court custody and it can be released with sufficient safeguard. According to the petitioner, he is the owner of the vehicle and if the vehicle is allowed to be kept in open space, it will be exposed to dust, heat and rain and the value of the vehicle will be diminished. Under those circumstances, I am of the view that the order passed by the Court below refusing to return the vehicle is unsustainable and, therefore, this Revision Petition is allowed. The Court below is directed to return the vehicle, viz., Hero Honda Splender Plus bearing Registration No.TN-30 BY-9101 to the petitioner subject to the following conditions:-

(i) The petitioner shall establish the ownership of the vehicle in question by producing the original Registration Certificate (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 original of the R.C.Book, shall return the xerox copy of the R.C.Book to the revision petitioner with a view to use the vehicle excepting the original R.C. Book which will be in the custody of the Court.

(ii) The petitioner shall deposit a sum of Rs.5,000/- [Rupees five thousand only] to the satisfaction of the learned Sessions Judge, Mahila Court, Salem.

(iii) The petitioner shall also furnish two sureties for a sum of Rs.25,000/- [Rupees twenty five thousand only] each to the satisfaction of the learned Sessions Judge, Mahila Court, Salem.

iv) The petitioner shall file an affidavit of undertaking before the learned Sessions Judge, Mahila Court, Salem to the effect that he will not alienate or encumber or alter the vehicle in any manner till the disposal of the criminal case.

v) The court below shall effect return of the vehicle to the revision petitioner after causing necessary photographs and Videographs as well as panchanama. The panchanama shall be drawn up by an officer of the Court in the presence of two Panchayatdhars and in the immediate presence of the Presiding Officer of the Court.

vi) The petitioner shall file an affidavit of undertaking to the effect that he will produce the vehicle in question as and when it was directed to be produced by the court below during the course of trial.

Sd/-
Asst.Registrar (CSV)

/true copy/

Sub Asst. Registrar

vj2

To

1. The Sessions Judge, Mahila Court, Salem.
2. The Public Prosecutor, High Court, Madras
3. The Inspector of Police,
Tholasampatty Police Station,
Omalur Taluk, Salem District.

+1 cc to Mr.P.Mani, Advocate, sr.57345

Cr1 RC No.1110 of 2015

pur co
kra 30/10/2015

WEB COPY