

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :11.09.2015

CORAM:

THE HONOURABLE MR.JUSTICE B.RAJENDRAN

Criminal Revision Case No. 973 of 2015

Rajangam

.. Petitioner

Versus

State represented by
The Inspector of Police
All Women Police Station (South)
Tirupur
(Crime No.2 of 2015)

... Respondent

Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure praying to set aside the order passed in C.M.P. No. 282 of 2015 dated 10.07.2015 passed by the Magalir Neethimandram, Fast Track Mahila Court, Tirupur and consequently directing the respondent police to return the petitioner's vehicle bearing Registration No. TN-42-J-9671 (Yamaha FZS Bike) in Crime No. 2 of 2015 on the file of the respondent.

For Petitioner : Mr. W. Camyles Gandhi
For Respondent : Mr. V. Arul, Government Advocate
(Crl.side)

ORDER

The petitioner has filed this Criminal Revision Case aggrieved by the order dated 10.07.2015 passed by the court below, by which, the court below refused to release the vehicle in question in favour of the petitioner pending the criminal trial.

2. According to the petitioner, he is the owner of the vehicle - Yamaha bike and it was seized by the respondent police in connection with the case in Crime No.2 of 2015 for the alleged offence punishable under Section 5 (d) and 6 of the Protection of Children from Sexual Offence Act, 2012 and Section 3 (I) (I) (i) read with Section 2 (v) of the SC/ST Prevention of Atrocities (Amendment) Order 2014. In connection with the above case, the petitioner was arrested and remanded to judicial custody and later he was released on bail. Thereafter, the petitioner has filed the instant application in CMP No. 282 of 2015 seeking for return of the vehicle on the ground that the seizure of the vehicle has nothing to do with the case. The said application was dismissed by the court below, against which the present Criminal Revision Case is filed.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the vehicle in question and 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. The learned counsel also submitted that he is willing to produce the vehicle as and when required and he will not alienate the vehicle 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 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 it will diminish the value of the vehicle. 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 - Yamaha FZS Bike bearing Registration No. TN 42 J 9671 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, 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 execute bond for Rs.1,00,000/- [Rupees Two Lakhs only] to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Mahalir Neethimandram, Tirupur

(iii) The petitioner shall also furnish two sureties for a sum of Rs.10,000/- each like sum to the satisfaction of the learned Sessions Judge, Fast Track Mahila Court, Mahalir Neethimandram, Tirupur

(iv) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten Thousand Only) in cash to the credit of CMP No. 282 of 2015 on the file of learned Sessions Judge, Fast Track Mahila Court, Mahalir Neethimandram, Tirupur

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

vi) The court below shall effect return of the vehicle to the revision petitioner after causing necessary photographs and 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.

vii) 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.

rsh

s/d-
Assistant Registrar(CS-III)

True Copy

Sub-Assistant Registrar

To

1. The Sessions Judge
Fast Track Mahila Court
Mahalir Neethimandram
Tirupur
2. The Inspector of Police,
All Women Police Station (South)
Tirupur.

+ 1 cc to Mr.W.Camyles Gandhi, Advocate SR 49803

kji(co)
prk5/10

Cr1.R.C. No. 973 of 2015