



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.10.2015

CORAM:

THE HON'BLE MRS.JUSTICE S.VIMALA

Cr1.R.C. (MD) No.522 of 2015

C.Marimuthu

...Petitioner/Petitioner/Owner

-vs-

State Rep. by
The Sub Inspector of Police,
Taluk Police Station,
Tirunelveli District.
(Cr.No.150 of 2015)

...Respondent/Respondent/Defacto Complainant

Prayer: Criminal Revision Petition is filed under Sections 397 and 401 Cr.P.C. to call for the records of the Judicial Magistrate No.III, Tirunelveli in Cr.M.P.No.3684 of 2015, dated 04.09.2015 and set aside the same.

For Petitioner : Mr.S.Sundara Pandian

For Respondent : Mr.P.Kandasamy
Govt. Advocate (crl. side)

O R D E R

This Criminal Revision Petition has been filed for return of the vehicle, namely, Bajaj Pulsar Two-wheeler, bearing Reg.No.TN-72-BA6379. This property has been recovered as a case property by the respondent in connection with the offence under Sections 147, 148, 341, 302 and 120B IPC in Crime No.150 of 2015 by Taluk Police Station, Tirunelveli District.

2.When the accused wanted return of property, it has been dismissed on the ground that the prosecution strongly objected for the return of vehicle. The Court below ought to have considered the justifiability of the objection raised by the prosecution in returning the property.

3.It is the case of the accused that the vehicle if remain ile and kept in the open sky, it may be exposed to hot sun and rain and it would suffer deterioration in value. It is not the case of the prosecution that the vehicle was a tool in committing the offence.

4.Under such circumstances, the Court should have ordered return of property. Therefore, the order passed in Cr.M.P.No.3684 of 2015, dated 04.09.2015 by the learned Magistrate No.III, Tirunelveli is set aside. The Trial Court is directed to release the vehicle bearing

Reg.No.TN-72-BA6379 to the petitioner, subject to the following conditions:-

"(i) The petitioner shall produce documents before the Court below to establish the ownership of the vehicle in question;

(ii) the petitioner shall execute an own bond for a sum of Rs.10,000/- (Rupees ten thousand only) along with two sureties each for a likesum to the satisfaction of learned Judicial Magistrate No.III, Tirunelveli;

(iii) The petitioner shall give an undertaking that he will not allow the vehicle to be used for any illegal activities in future;

(iv) On doing so, the vehicle in question shall be returned to the petitioner;

(v) The Trial Court, while returning the vehicle, shall retain the original R.C.Book of the vehicle and in case, the R.C.Book is available with the petitioner, he shall surrender the same before the Court and obtain a certified copy of the R.C.Book for the purpose of using it along with the vehicle;

(vi) The vehicle shall not be sold, mortgaged and alienated till the disposal of the proceedings before the authority concerned and shall produce the same before the concerned Court as and when required.

5. This Criminal Revision Petition is ordered accordingly.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1.The Judicial Magistrate No.III, Tirunelveli.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

3.The Sub Inspector of Police,
Taluk Police Station,
Tirunelveli District.

+1cc to Mr.S.Sundara Pandian, Advocate SR.No.63745

Cr1.R.C.(MD) No.522 of 2015
30.10.2015

rj2

NS/KBM/16.11.2015 : 2P/5C