

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.1029 of 2016

Ravi

... Petitioner/Accused

Vs.

State Rep. by,
The Inspector of Police,
Valathi Police Station,
Villupuram District.
(Crime No.167 of 2016)

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, against the return of property dismissed by the Judicial Magistrate, Gingee, in C.M.P.No.2670 of 2016, dated 20.07.2016 on his file and call for records.

For Petitioner : Mr.T.V.G.Kartheeban
For Respondent : Mrs.M.F.Shabana,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order dated 20.07.2016 passed by the learned Judicial Magistrate, Gingee, in C.M.P.No.2670 of 2016, dismissing the petition filed by the petitioner herein for return of the vehicle to his interim custody.

2. The learned counsel for the petitioner would mainly contend that the order of the trial Court is contrary to law and incorrect, illegal, improper and irregular. It is further contended that the trial Court has not followed the principles laid down by the Hon'ble Apex Court in Sunderbai Ambalal Desai case. It is also contended that the trial Court has failed to exercise the discretionary power and hence, he prayed that the order dated 20.07.2016 passed by the learned Judicial Magistrate, Gingee, in C.M.P.No.2670 of 2016 may be set aside and this Criminal Revision Case may be allowed and the vehicle viz., Pulzer two wheeler bearing Registration No.TN-25-UA-9418 may be returned to the petitioner.

3. The learned Government Advocate (Crl.Side) would contend that the learned Magistrate, after considering the entire facts and
<https://hcservices.ecourts.gov.in/hcservices/>

circumstances of the case, correctly passed order dismissing the petition filed by the revision petitioner. Therefore, there is no illegality or infirmity in the order passed by the learned Judicial Magistrate, Gingee, and hence, the learned Government Advocate prayed that the criminal revision case may be dismissed.

4. This Court has considered the submissions made by the learned counsel on either side and perused the records.

5. In support of his contentions, the learned counsel for the petitioner has relied on a judgment of the Madurai Bench of this Court passed in CrI.R.C.(MD) No.563 of 2015 (Balamurugan Vs. State Rep. by Inspector of Police), decided on 09.12.2015, wherein, at paragraph No.4, the Madurai bench of this Court has held as follows:-

"4. In short, the learned counsel for the petitioner projects a legal plea that 'mere initiation of confiscation proceedings or intend to initiate confiscation proceedings' or any order passed by the confiscating authority, is not a bar to invoke the aid of Section 451 of Cr.P.C. Furthermore, it is represented on behalf of the petitioner that even though after granting of interim custody of the vehicle, the confiscating authority can pursue his own proceedings irrespective of the order passed by the learned Judicial Magistrate granting interim custody of vehicle."

6. In this case, the petitioner is an accused in Crime No.167 of 2016 for the offences under Sections 4(1)(a) 4(1-A) of TNP Act. It is further admitted that the vehicle viz., Pulzer two wheeler bearing Registration No.TN-25-UA-9418 has been used for the commission of offence and confiscation proceedings was initiated by the competent authority and the confiscation proceedings is pending before the competent authority. Since the petitioner is an accused and the concerned vehicle was used for the alleged commission of offence and confiscation proceedings also was initiated and pending, the trial Court correctly dismissed the petition filed by the petitioner for return of vehicle.

7. Considering the facts and circumstances of the case, this Court is also of the considered view that since the confiscation proceedings is pending before the competent authority, the argument of the learned counsel for the petitioner that the vehicle has to be returned to the petitioner to his interim custody is not at all acceptable. There is no infirmity or illegality in the order dated 20.07.2016 passed by the learned Judicial Magistrate, Gingee, in C.M.P.No.2670 of 2016. This Court finds no reason to interfere with the order passed by the learned Judicial Magistrate, Gingee, which does not warrant any interference by this Court and hence, the

criminal revision case is liable to be dismissed and accordingly,
this Criminal Revision Case is dismissed.

Sd/-
Asst.Registrar

/true copy/

Sub Asst. Registrar

Jrl

To

1. The Judicial Magistrate,
Gingee.
2. The Inspector of Police,
Valathi Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

CO : PVS
THS : 18.10.2016



WEB COPY