

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.12.2016

CORAM:

THE HON'BLE MR.JUSTICE C.T. SELVAM

Crl.R.C.No.1593 of 2016

Shakul Hameed

.. Petitioner

Vs.

State represented by
The Inspector of Police,
Vedakkipalayam Police Station,
Coimbatore.

Crime No.147 of 2016

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. praying to call for the records on the file of the learned Judicial Magistrate I, Pollachi, in C.M.P.No.4469 of 2016 dated 14.10.2016 and set aside the order dated 14.10.2016 and direct the learned Magistrate to return the Bajaj two wheeler bearing registration No.TN-41-AQ-0158 to the custody of the petitioner herein.

For Petitioner : Mr.K.Balasubramaniam
For Respondent : Mr.M.Mohammed Riyaz
Govt.Advocate (Crl.side)

ORDER

The petitioner challenges the order of the learned Judicial Magistrate I, Pollachi, made in C.M.P.No.4469 of 2016 dated 14.10.2016, rejecting the petition filed for return of vehicle.

2. The respondent has seized a Bajaj two wheeler bearing Registration No.TN-41-AQ-0158 belonging to the petitioner in connection with the case registered in Crime No.147 of 2016 on its file for offence under Section 269 IPC. The petitioner has moved C.M.P.No.4469 of 2016 before the learned Judicial Magistrate I, Pollachi, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 14.10.2016 and hence, this revision.

3. Learned counsel for the petitioner would seek to impress upon this Court that a false case stands foisted upon the petitioner.

5. In the circumstances above stated and following the decisions of the Hon'ble Apex Court in *Sunderbhai Ambalal Desai v. State of Gujarat* (AIR 2003 Supreme Court 638) and *General Insurance Council V. State of Andhra Pradesh* in 2010 (3) Supreme Pg. 317, this Court directs as follows:

The Bajaj two wheeler bearing Registration No.TN-41-AQ-0158 shall be placed in the custody of the petitioner after complying with the following:

i)The lower Court shall cause photographs of the vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with.

ii)The vehicle shall then be returned to the petitioner, who shall be at liberty to deal with the same in such manner as considered appropriate.

6. The above order is not determinant of the ownership or other rights in respect of the vehicle.

7. In the result, the Criminal Revision is allowed. The order of the learned Judicial Magistrate I, Pollachi, passed in C.M.P.No.4469 of 2016 dated 14.10.2016 is set aside.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

kpr

To

1.The Judicial Magistrate I,
Pollachi.

2.The Inspector of Police,
Vedakkipalayam Police Station,
Coimbatore.

WEB COPY

3.The Additional Public Prosecutor,
High Court, Chennai.

+1cc to Mr.K. Balasubramaniam, Advocate, S.R.No.73133

rsk(CO)
md(01/02/2017)

Cr1.R.C.No.1593 of 2016



WEB COPY