

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.06.2016

CORAM:

THE HONOURABLE MR.JUSTICE G.CHOCKALINGAM

Crl.R.C.No.838 of 2016

K.Doraisamy

... Petitioner

Vs.

The Inspector of Police,
J1-Saidapet Police Station,
Chennai.
(Crime No.715 of 2016)

... Respondent

Prayer: Criminal Revision Case filed under Section 397 r/w. 401 of the Code of Criminal Procedure, praying to call for the records pertaining to the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.1054 of 2016, dated 01.06.2016 and set aside the same and direct the respondent to return the TVS Scooty vehicle bearing Number TN-06-C-8250, which was seized by the respondent police in Crime No.715 of 2016 to the petitioner.

For Petitioner : Mr.Hasan Mohammed Jinnah

For Respondent : Mr.M.Mohamed Riyaz,
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is directed against the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, in Crl.M.P.No.1054 of 2016, dated 01.06.2016.

2. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent.

3. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle viz., TVS Scooty Pep bearing Registration Number TN-06-C-8250 and the said vehicle is in the custody of the IX Metropolitan Magistrate's Court, Saidapet, Chennai. The vehicle of the petitioner has to be returned to the petitioner, but the learned Magistrate, without allowing the petition filed by the petitioner seeking interim custody of the vehicle, had erroneously dismissed the same. Hence, the learned counsel for the petitioner prayed that the order passed by the learned

IX Metropolitan Magistrate, Saidapet, Chennai, may be set aside and this Criminal Revision Case may be allowed and the property/vehicle viz., TVS Scooty Pep bearing Registration Number TN-06-C-8250 may be returned to the petitioner.

4. The learned Government Advocate (Crl.Side) would submit that the concerned property was not remanded to the particular case in crime No.715 of 2016 and hence, the petition filed by the petitioner is not at all maintainable and hence, he prayed that the criminal revision case may be dismissed.

5. This Court has considered the submissions made by the learned counsel on either side and perused the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai.

6. The operative portion of the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, reads as follows:-

"During the course of investigation, the two wheeler bearing Registration No.TN-07-AL-6728 Scooty pep was recovered from the accused. The petitioner's property bearing Registration No.TN-07-AL-6728, was not produced before this Court by the respondent police, since the property is not pertained to this case. As per records, petitioner's property pertaining to E1 Mylapore Police Station Crime No.945 of 2016. Hence, this petition is not maintainable before this Court. The petitioner can very well approach the proper forum for remedy if any. On considering above this petition is dismissed as not maintainable."

7. On a perusal of the above order, it is seen that the learned Magistrate, in his order, mentioned the vehicle as "two wheeler bearing Registration No.TN-07-AL-6728". But, according to the learned counsel for the petitioner, the vehicle viz., TVS Scooty Pep bearing Registration Number TN-06-C-8250 has to be returned to the petitioner. The learned Magistrate has not passed any orders regarding the vehicle viz., TVS Scooty Pep bearing Registration No.TN-06-C-8250, but only mentioned another vehicle bearing Registration No.TN-07-AL-6728. In view of the above facts and circumstances of the case, the order passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, is liable to be set aside.

8. Accordingly, this Criminal Revision Case is allowed and the order dated 01.06.2016 passed by the learned IX Metropolitan Magistrate, Saidapet, Chennai, is set aside and the matter is remanded to the learned IX Metropolitan Magistrate, Saidapet, Chennai, to pass appropriate orders according to law, within a period of two weeks from the date of receipt of a copy of this order.

Sd/-

Assistant Registrar(CS II)

//True Copy//

Sub Assistant Registrar

Jrl
To

1. The IX Metropolitan Magistrate,
Saidapet, Chennai.
2. The Inspector of Police,
J1-Saidapet Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.Hasan Mohamed Jinnah, Advocate, S.R.No.

GJII(CO)
EU(25/07/2016)

Cr1.R.C.No.838 of 2016

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