



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.116 of 2016

Thangadurai

... Petitioner / Petitioner

-vs-

The State rep.by
The Inspector of Police
Madukkur Police Station
Thanjavur District
(Crime No.425 of 2015)

... Respondent / Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records and set aside the order, dated 22.01.2016, passed in Crl.M.P.No.7552 of 2015, on the file of the learned Judicial Magistrate, Pattukottai, Thanjavur District.

For Petitioner: Mr.B.Jameel Arasu

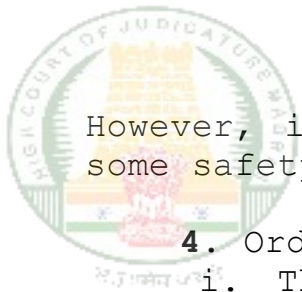
For Respondent: Mrs.S.Prabha
Govt.Advocate (Crl.Side)

O R D E R

This matter is squarely covered by the Apex Court's Judgment in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]**.

2. A two-wheeler (TN50 V5082) is concerned in a prohibition case. There is no dispute that the revision petitioner is the owner of the said vehicle.

3. With reference to the alleged confiscation of property is concerned, the dispute would be whether the revision petitioner / vehicle owner is aware of or he is connived with the accused in allowing / lending his vehicle for commission of the offence. That will be a matter to be decided, after giving opportunity to the vehicle owner. But, until a final order is passed by the competent authority in a manner known to law, the principle of **Sunderbhai Ambalal Desai** (supra) squarely applies to this case.



However, in view of the stand taken by the respondent / Police, some safety clauses should be incorporated in the order.

4. Ordered as under:

i. This criminal revision is allowed.

ii. The Order, dated 22.01.2016, passed in Crl.M.P.No.7552 of 2015, by the learned Judicial Magistrate, Pattukkottai, is set aside.

iii. The learned Magistrate, will give interim custody of the two-wheeler (TN50 V5082) to the revision petitioner.

iv. The revision petitioner will execute a personal bond for Rs.20,000/- (Rupees twenty thousand only) to the satisfaction of the said Magistrate. It is made clear that no property document, Solvency Certificate from Tahsildar or surety shall be insisted upon.

v. It is made clear that this interim custody is subject to the confiscation proceedings, if any, initiated before the concerned Authority. If any adverse order is passed, it is open to the revision petitioner to challenge it under T.N.P.I.D. Act.

vi. The said vehicle shall be photographed, the signature of the revision petitioner shall be obtained and they shall be kept in the case records.

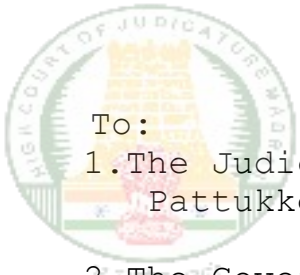
vii. Until final property order is passed by the said Magistrate or the authority before whom confiscation proceedings are pending, the revision petitioner shall not dispose of, alter or change the vehicle.

viii. The revision petitioner shall cause the production of vehicle as and when so ordered by the said Magistrate.

Sd/
Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar



To:

1.The Judicial Magistrate,
Pattukkottai.

2.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court,
Madurai.

3.The Inspector of Police,
Madukkur Police Station,
Thanjavur District.

+1cc to Mr.B.Jameel Arasu, Advocate in SR.No.32789

SDR/KBM/30.06.2016/3P/5C

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