



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 03.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.309 of 2016

WEB COPY

S.Karuppasamy

... Petitioner / Petitioner

-vs-

State rep. by its,
The Inspector of Police,
Panavadali Chatiram Police Station,
Tirunelveli District.
Crime No.17 of 2016.

... Respondent/Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order passed by the learned Judicial Magistrate, Sankarankovil dated 04.03.2016 in Cr.M.P.No.1373 of 2016 and set aside the same.

For Petitioner: Mr.S.Sukumar

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

O R D E R

This revision is as against the dismissal of Criminal M.P. No.1373 of 2016 filed for return of vehicle passed by the learned Judicial Magistrate, Sankarankovil.

2.It is the contention of the learned counsel for the petitioner that allowing the said property/vehicle in the custody of the police will open to deterioration due to keeping it in open space and ultimately its material value will go down.

3.On the other hand, the learned Government Advocate (Government Advocate) would submit that the accused is involved in a prohibition case. Confiscation proceedings has already been initiated by the competent authority.

4.I have considered the rival submissions, perused the impugned order and the materials on record.

5.Although the property viz. Motor bike is involved in this case the principles laid down in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]** can be invoked. But at the same time the prosecution has initiated confiscation proceedings for the said property. It shall be in accordance with law.



6. Thus, it is ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 04.03.2016, passed in Cr.M.P.No.1373 of 2016, by the learned Judicial Magistrate, Sankarankovil, is set aside.
- iii. The said Magistrate, will give interim custody of the property viz., Splender Plus two wheeler TN 76 E 7232 to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.30,000/- (Rupees Thirty thousand only) to the satisfaction of the said Magistrate.
- v. The revision petitioner shall cause the production of vehicle as and when so ordered by the said Magistrate.

7. It is made clear that this entrustment of the vehicle is subject to the final outcome of the confiscation proceedings initiated by the competent authorities. However, that will not disentitle the accused from taking any appropriate action, if any adverse order is passed at the said confiscation proceedings.

Sd/-

Assistant Registrar(T&P)

/True copy/

Sub Assistant Registrar

To:

1.The Judicial Magistrate,
Sankarankovil.

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

3.The Inspector of Police,
Panavadali Chatiram Police Station,
Tirunelveli District.

4. THE ADDITIONAL PUBLIC PROSECUTOR,
MADURAI BENCH OF MADRAS HIGH COURT, MADURAI.

+1cc to Mr.S.Sukumar, Advocate Sr.No.27852

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