

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 11.08.2017

CORAM

THE HON'BLE MR. JUSTICE **R.SURESH KUMAR**

Crl.R.C.No.1011 of 2017

Rupan

...Petitioner

Vs.

The Inspector of Police,
NIB-CID, Salem,
Crime No.10/2017

...Respondent

Prayer:- Petition filed under Section 397 & 401 of the Criminal Procedure Code, 1973 praying to set aside the judgment passed in C.M.P.No.143 of 2017 in Crime No.10 of 2017 on the file of the Special Court for the E.C. Act cases, Salem.

For Petitioner : Mr.T.Muruganantham

For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

This revision case has been filed against the order passed by the learned Special Court for E.C. Act cases, Salem in C.M.P.No.143 of 2017 in Crime No.10 of 2017 dated 19.04.2017.

2. The case of the petitioner is that the petitioner's vehicle i.e., two

wheeler motor cycle un-registered, had been seized by the respondent/Police related to the alleged crime in Cr.No.10 of 2017 on the file of the respondent police. Accordingly, the said vehicle had been in the custody of the Court below from 31.01.2017. Further, the case of the petitioner is that the petitioner had purchased the said vehicle from one S.A.A.Motors at Pallipalayam, Namakkal District on 29.01.2017, and for the said purchase only a delivery note has been given. After taking delivery of the vehicle, the petitioner should have, in fact, registered the vehicle but due to some unavoidable reasons, he could not register the vehicle immediately and therefore when he was using the vehicle without registration, it was seized by the respondent Police for the alleged offence.

3. Since the vehicle, which is brand new one, has been seized and kept in custody of the Court below, which would obviously exposes to sun light and rain, the petitioner being the owner of the vehicle, had approached the Court below for custody of the said vehicle. The said petition has been rejected by the Court below through the impugned order as against which the present revision.

4. I heard the learned counsel appearing for the petitioner as well as the learned Additional Public Prosecutor for the respondent/State.

5. A perusal of the reasons given by the learned Magistrate would show that the main ground for rejection is that the petitioner had produced the delivery note, wherein it is specifically mentioned that the vehicle is only being delivered and no where it is stated that it is being sold to the petitioner and apart from the delivery note, no other document had been produced to show that the petitioner is the owner of the vehicle. More over, the value of the vehicle i.e., price of the vehicle is not mentioned and also the addresses of the petitioner is also not stated in the delivery note. Therefore, based on the delivery note alone, it could not be decided that the petitioner is the owner of the vehicle and the said factors can be decided by summoning the concerned motor company i.e, S.A.A.Motors before the Court for deposition. Since no charge sheet has been filed before the Court below on that ground also, the petitioner's request was rejected.

6. However, the learned counsel appearing for the petitioner has submitted that the delivery note would be a final document and based on which only further process of registration has to be undertaken and no registration has been done after taking delivery from the S.A.A.Motors and it is the failure on the part of the petitioner and therefore such failure cannot be treated as the one to reject the application of the petitioner stating that the petitioner is not at all the owner of the vehicle.

7. I have considered the said submission made by the learned counsel and perused the copy of the delivery note given by the S.A.A.Motors, Pallipalayam and also the document to show that the petitioner has obtained the loan from financier called "Sun Finance" in the delivery note. The address of the petitioner has been mentioned where the condition has also been stated that the vehicle being delivered to the petitioner shall be registered and only after the registration, the same shall be plied on the roads. In the said delivery note the Engine number of the vehicle has been specifically mentioned as 21CM045810. In the finance company's documents also the Engine number has been mentioned as 21CM045810, where also the name and full address of the petitioner has been given. The amount advanced by the said finance company towards the purchase of the vehicle to the petitioner has also been mentioned as Rs.65,000/-. The petitioner has also signed both documents i.e., delivery note of S.A.A.Motors and the financial documents by which finance was advanced to the petitioner. A fair look of these two documents, at least, prima facie reveals that the vehicle i.e, two wheeler motor cycle with the above engine number, has been delivered to the petitioner by the S.A.A. Motors and for which the petitioner seems to have obtained a loan of Rs.65,000/- from the financier. These documents would disclose the fact that the petitioner has purchased the vehicle for a valuable consideration however, the mistake he committed is that he was

plying the vehicle without registering the same.

8. Therefore, on considering all these aspects, this Court is of the view that the reasons adduced by the learned Magistrate in rejecting the said application for custody of the vehicle may not be justifiable and therefore the said order which is impugned herein is set aside. In the result, this revision case is allowed and the petitioner shall be permitted to undertake the interim custody of the vehicle i.e, two wheeler motor cycle with engine number 21CM045810 on condition that

(i) the petitioner shall execute a bound for Rs.60,000/- to the satisfaction of the learned Special Court for E.C. Act cases, Salem, within a period of two weeks from the date of the receipt of a copy of this Order and on further condition that

(ii) after taking custody of the vehicle, the petitioner shall register the same immediately i.e, within a period of two weeks from the date of taking custody of the vehicle from the concerned Court and after registering the same the petitioner shall produce the vehicle with R.C.Book before the Court below within a period of two weeks thereafter and also

R.SURESH KUMAR,J.

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(iii) the petitioner shall continue to produce the vehicle with R.C.Book and make an endorsement at the Court below, every two weeks on the first working day at 10.30 am., until further orders.

11.08.2017

Speaking /non-speaking Order
Index :Yes/No

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To

1. The Presiding Officer,
The Special Court for the E.C. Act cases,
Salem.
2. The Inspector of Police,
NIB-CID, Salem.
3. The Public Prosecutor,
High Court, Madras.

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