

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2017

CORAM

THE HONOURABLE MR. JUSTICE R. SURESH KUMAR

CrI.R.C.No.1076 of 2017

K.Ganesh Babu ... Petitioner

Vs.

The State rep by
The Inspector of Police,
Valasaravakkam Police Station,
Chennai ... Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. to set aside the order of dismissal dated 25.07.2017, made in Criminal M.P.No.3230 of 2017 in Crime No.1111 of 2017, on the file of Judicial Magistrate No.1 at Poonamallee, by allowing this Revision Petition and return the Scooter bearing Registration No.TN20 CF 1424 to the petitioner pending trial.

For Petitioner : Mr.D.Ravikumar
For Respondent : Mr.C.Iyyapparaj
Additional Public Prosecutor

ORDER

This criminal revision case has been filed against the order of dismissal passed by the Judicial Magistrate No.1, Poonamallee in M.P.No.3230 of 2017 in Crime No.1111 of 2017, on the file of the learned Judicial Magistrate No.1, Poonamallee, dated 25.07.2017.

2.The case of the petitioner is that the petitioner is the owner of the vehicle/two wheeler - Yamaha brand with Registration No.TN20 CF 1424. According to the petitioner, the said vehicle had been given to his friend one K.Vijayan on his request on 26.06.2017. However, the petitioner had received information from the respondent police that the said vehicle of the petitioner had been seized as by using the said vehicle, the friend of the petitioner, the said K.Vijayan, who is the accused in the case, had stolen a cell phone.

3.The petitioner's further case is that he is in no way connected with the alleged offence said to have been committed by the said K.Vijayan and he innocently had lent the bike/two wheeler which is in question, to his friend which is alleged to have been misused by him. Therefore, the petitioner had moved an application before the trial Court seeking for interim custody of the said vehicle. The learned trial Judge has dismissed the said petition by order dated 14.07.2017.

4. However, subsequently, the petitioner filed another petition for the very same relief. This time, according to the learned counsel for the petitioner, he had produced some authorities before the trial Court for consideration and only on that

strength, he moved the second petition. The second petition also had been dismissed by order dated 25.07.2017 which is the order impugned herein. As against which, the present revision has been filed.

5.I have heard Mr.D.Ravikumar, learned counsel appearing for the petitioner as well as Mr.C.Iyyapparaj, learned Additional Public Prosecutor appearing for the respondent.

6.The learned Additional Public Prosecutor submits that the petitioner is not an accused in the case and he has produced the R.C. book showing that the petitioner is the owner of the vehicle.

7.Considering the said facts and circumstances, this Court is of the view that the vehicle in question belonging to the petitioner has been misused by the accused, with the result, the said vehicle has been seized by the respondent police.

8.Even for continuation of investigation, keeping the said vehicle in the custody of the respondent police, in the opinion of this Court, may not be required, as, if the vehicle is returned to the petitioner with a condition that, as and when required, the vehicle can be directed to be produced before the respondent police, the

purpose of completion of investigation would be served.

9. Moreover, if the motor vehicle is kept idly exposing to sunlight, the motor parts of the vehicle would get repaired and the value of the vehicle also get diminished. Instead of keeping the vehicle idle under the custody of the respondent police, the same can be given by way of interim custody to the petitioner, who is the owner of the vehicle.

10. In view of the aforesaid circumstances, I am inclined to pass the following order in this revision case:

(i) The vehicle/two wheeler bearing Registration No.TN20 CF 1424 shall be returned to the petitioner on condition that the petitioner shall execute a bond for a sum of Rs.50,000/- to the satisfaction of the learned Magistrate No.1, Poonamalle, within a period of two weeks from the date of receipt of a copy of this order.

(ii) That the petitioner shall not alter or tinker the vehicle under any circumstances without the order of the trial Court.

(iii) Further, the petitioner shall not pledge or sell the vehicle under any circumstances, till the disposal of the case which is being investigated by the respondent police.

(iv) That the petitioner also shall produce the vehicle to the respondent police as and when, it is required.

11. With these conditions, the vehicle in question shall be released by the trial Court. This Criminal Revision case is disposed of with the aforesaid orders.

18.08.2017

Index:yes/no
Internet:yes/no
AT

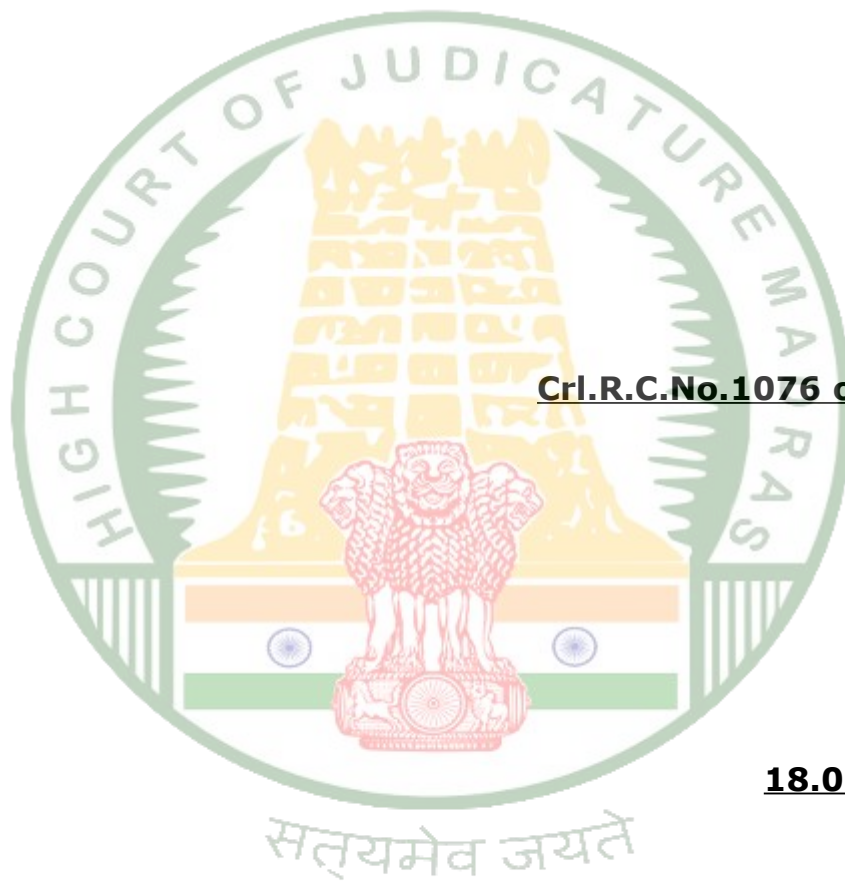
Note: Issue on 21.8.2017

To

1. The learned Judicial Magistrate
No.1, Poonamallee.
2. The Inspector of Police,
Valasaravakkam Police Station,
Chennai.

R. SURESH KUMAR, J

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