

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2017

CORAM

THE HONOURABLE DR.JUSTICE.S.VIMALA

Crl.R.C.No.1440 of 2017

A.Suresh

... Revision Petitioner/
Owner of the Vehicle

Vs

State Rep. by its
Sub Inspector of Police,
Salavakkam Police Station,
Kancheepuram District

... Respondent /complainant

Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C. praying to call for the records and set aside the order dated 17.08.2017 passed by the learned District Munsif cum Judicial Magistrate, Uthiramerur, in Crl.M.P.No.938 of 2017 and to return the Hero Honda Motor Cycle bearing Reg.No.TN21AS 9867 to the custody of the petitioner.

For Petitioner : Mr.G.Punniakoti

For Respondent : Mr.V.Arul
Additional Public Prosecutor

ORDER

Originally, the accused/petitioner herein filed a petition under Sections 451 and 457 of Cr.P.C. seeking return of vehicle belonging to him bearing Reg.No.TN21AS 9867-Hero Honda Splendor Plus. The vehicle came to be seized by the respondent Police in respect of the alleged offence under Section 4(i)(a) of TNP Act. The accused, as the owner of the vehicle, has filed a petition for return of the vehicle, which came to be dismissed by the order dated 17.08.2017, which is now under challenge in this revision.

2. A perusal of the impugned order reveals that the petition for return of vehicle has been dismissed on the ground that confiscation proceedings have been initiated by the respondent Police.

3. The learned counsel appearing for the revision petitioner submitted that even though the order passed by the learned Magistrate is dated 17.08.2017, till now, confiscation proceedings have not been completed and the perennial exposure of vehicle in the sun light would diminish the value of the vehicle and

therefore, the vehicle should be returned to be put to better use.

3.1. It is also submitted that the accused did not commit any crime and a false case has been registered against the petitioner herein. The learned counsel further submitted that the petitioner the vehicle may be released to the petitioner on any strict condition that this Court may impose, subject to the pending confiscation proceedings.

4. Considering the stated circumstances and in the light of the Supreme Court directions issued in the case of *Sunderbhai Ambalal Desai v. State of Gujarat* (AIR 2003 Supreme Court 638), the vehicle is ordered to be returned subject to the following conditions and subject to the result of confiscation proceedings:

"(1) preparing detailed proper panchanama of such articles:

(2) taking photographs of such articles and a bond that such articles would be produced if required at the time of trial; and

(3) after taking proper security.

For this purpose, the Court may follow the procedure of recording such evidence, as it thinks necessary, as provided under Section 451 Cr.P.C. The bond and security should be taken so as to prevent the evidence being lost, altered or destroyed. The Court should see that photographs or such articles are attested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the Court under Section 451 Cr.P.C. to impose any other appropriate condition."

5. On satisfactory compliance of the conditions given above, the vehicle shall be released for interim custody to the petitioner, which would be subject to the result of confiscation proceedings. The criminal revision case is accordingly disposed of in the above terms.

Sd/-

ASST. REGISTRAR

/TRUE COPY/

SUB ASST. REGISTRAR

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To

1. The District Munsif
cum Judicial Magistrate,
Uthiramerur,

2. -do- Through the Chief Judicial Magistrate
Kancheepuram

3. The Sub Inspector of Police,
Salavakkam Police Station,
Kancheepuram District
Crima No.281/17

4. The Section Officer,
Criminal Section, High Court, Madras.

+1 cc to Mr.G.Punniyakotti, Advocate SR.NO. 82587

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KK(CO)
JK 29/01/18



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