

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.07.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SURESH KUMAR

CRL.RC.NO.933 of 2017

Latchumanan

.. Petitioner/Owner of the
Vehicle

Vs.

State Represented by,
The Station House Officer,
Brammadesam Police Station,
Villupuram District.

... Respondent/Complainant

PRAYER : Criminal Revision Petition filed under Section 397 & 401 of Cr.P.C., to call for the records on the file of the learned Judicial Magistrate, No.II, Tindivanam, Villupuram District in Crl.M.P.No.2030/2017 dated 22.06.2017.

For Petitioner: Mr.E.Kannadasan

For Respondent: Mr.R.Sekar

Govt. Advocate (Criminal side)

O R D E R

This Revision has been filed against the order passed by the Judicial Magistrate No.II, Tindivanam in Crl.M.P.No.2030 of 2017 dated 22.06.2017.

2. The case of the petitioner was that on 31.03.2017 when the petitioner was returning back to his Village called Kiliyanur at Vannoor Taluk after attending a family function of his friend in a Motor Cycle (Two Wheeler) with Registration No.TN-19-T-1180, the respondent police had intercepted and they have taken the vehicle to the police station, where they booked a case in Crime No.153 of 2017 under Section 4 (1-A) of the Tamil Nadu Prohibition Act.

3. It is a claim of the petitioner that the petitioner has not involved in any crime as has been set out in the said crime No. 153 of 2017. It is the further case of the petitioner that the petitioner by using the said two wheeler only is attending his work place every day and also very often he has taken his mother to hospital only with the help of the said two wheeler.

4. The said two wheeler recovered by the respondent police has been kept idle and because of which, the value of

the vehicle get diminished and also without the vehicle even the day to day need of the petitioner is not able to be fulfilled and therefore, he approached the Court below by filing the petition for the interim custody of the said vehicle.

5. The said petition was rejected by the learned Magistrate by the impugned order dated 22.06.2017, where the learned Magistrate has said, the confiscation notice filed, in view of the confiscation proceedings the petition stands dismissed.

6. I have heard, Mr.E.Kannadasan, learned counsel appearing for the petitioner as well as Mr.R.Sekar, the learned Government Advocate (Criminal side) appearing for the respondent.

7. This Court specifically directed the learned Government Advocate (Criminal side) to get instruction as to whether the vehicle has got confiscated pursuant to the notice issued by the respondent police.

8. In response to the said query, the learned Government Advocate (Criminal side) has submitted that though a notice was given on 07.04.2017 directing the petitioner to appear and give reasons, as to why the vehicle should not be confiscated, within seven days from the date of receipt of the notice, since subsequently, the petitioner had filed the present petition before the Court below, the said proceedings initiated by issuance of notice for confiscation was not further proceeded.

9. Therefore, the learned Government Advocate would submit that the vehicle has not sofar been confiscated.

10. Since no confiscation is completed, the said reason adduced by the learned Magistrate in the impugned order for rejecting the petition for interim custody of the vehicle may not be justifiable.

11. If at all the respondent police had decided to confiscate the vehicle, they would have by this time proceeded and completed the said task pursuant to the notice issued in this regard on 07.04.2017. Since the respondent police themselves have not shown any interest to complete the proceedings of confiscation, the said reasoning cited by the learned Magistrate to state that the confiscation notice was issued and therefore, the petition was dismissed is, in the opinion of this Court, may not be justifiable and therefore, the impugned order is liable to be interfered with, by this Court.

12. In the result, the following orders are passed in this Revision case. That the vehicle (two wheeler) with

Registration No.TN-19-T-1180 APACHER TR 160 BSIII shall be released to the petitioner, on condition that the petitioner executing a bond for Rs.60,000/- (Rupees Sixty Thousand Only) to the satisfaction of the learned Judicial Magistrate No.II, Tindivanam and also with a condition of undertaking to be given to the court below that the petitioner shall not tamper with the vehicle or alter the shape of the vehicle and also transfer the vehicle to any third party.

13. With these conditions to be complied with by the petitioner, the Court below shall order for interim custody of the vehicle concerned to the petitioner.

With these directions, this criminal revision case is disposed of.

Sd/-

Asst.Registrar (CS II)

/true copy/

Sub Asst. Registrar

To

1. The Judicial Magistrate,
No.II, Tindivanam,
Villupuram District.

2.The Chief Judicial Magistrate,
Villupuram.

3. The Station House Officer,
Brammadesam Police Station,
Villupuram District.

4. The Public Prosecutor,
High Court,
Madras.

+lcc to Mr.E.Kannadasan,Advocate sr.53929

CRL.RC.NO.933 of 2017

rv(co)
ss(1/8/2017)