



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 11.05.2017

CORAM:

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THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.122 of 2017

Orders Reserved on 13.03.2017

Sabari Sankar

: Petitioner/Petitioner

Vs.

State Rep.by
The Inspector of Police,
All Women Police Station,
Srivaigundam
Thoothukudi District.

: Respondent/Respondent

Prayer: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to set aside the order passed by the learned Sessions Judge, Mahila Court, Thoothukudi in Cr.M.P.No.556 of 2016, dated 22.12.2016 and direct the respondent to return the petitioner's Bike Bajaj Pulsur 180 cc, Reg.No.TN-69-AY-8023, Engine No.DHGBLA01393, Chsis No.MD2DFHZZUCA18496 to the petitioner.

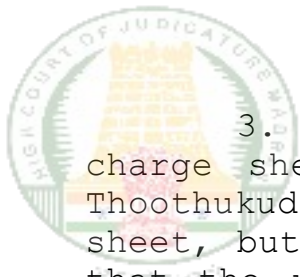
For Petitioner : Mr.A.D.Ganeshamoorthi

For Respondent : Mr.P.Kannithevan,
Government Advocate(Cr1. Side)

O R D E R

This Revision has been filed praying to set aside the order passed by the learned Sessions Judge, Mahila Court, Thoothukudi in Cr.M.P.No.556 of 2016, dated 22.12.2016 and direct the respondent to return the petitioner's vehicle viz., Bajaj Pulsur 180cc., bearing Reg.No.TN-69-AY-8023, to the petitioner.

2. The petitioner herein is one of the accused in Crime No.21 of 2016, registered on 03.08.2016, by the respondent Police, for the offence punishable under Section 392 IPC., and under Section 5(g), 5(1) r/w 6 of POCSO Act, 2012 and the Sections were altered into Section 392 IPC., and under Section 5(g) r/w 6 of



3. It is admitted by the respondent in his counter that the charge sheet was laid on 21.10.2016, before the Mahila Court, Thoothukudi and the petitioner is arrayed as A2 in the charge sheet, but it has not been taken on file. It is further admitted that the respondent Police seized motor cycle viz., Bajaj Pulsar 180cc., bearing Reg.No.TN-69-AY-8023, under seizure mahazar and the said vehicle was produced to the Mahila Court, Thoothukudi and was remanded in P.R.No.55 of 2016 and the same was returned to the respondent Police on 21.10.2016, by the said Court, for safe custody.

4. The case of the prosecution is that the said vehicle was said to be used in commission of the offence. The Revision Petitioner herein is the registered owner of the vehicle viz., Bajaj Pulsar 180cc bearing Reg.No.TN-69-AY-8023, which was seized and remanded to the Court. The Revision Petitioner moved the learned Sessions Mahalir Neethimandram, by filing Cr.M.P.No.556 of 2016, to hand over the said vehicle under Section 451 of Cr.P.C., for interim custody and the said petition was dismissed stating that identification of the vehicle is necessary for the expeditious trial and if the vehicle is handed over to the accused, who is the owner of the property, there is every possibility of tampering of evidence, hence, it is not fit for return the vehicle to the petitioner / accused at this stage, vide its order, dated 22.12.2016.

5. The learned counsel appearing for the petitioner would submit that the seized vehicle in question is being kept in open sky and ultimately, it will become a scrap-value.

6. The learned Government Advocate (crl.side) appearing for the respondent reiterates the very same contention, which was placed before the learned Sessions Judge.

7. Heard the rival submissions and perused the impugned order and also the materials on record.

8. This matter is squarely covered by the Apex Court Judgment in **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in (**2003 (1) CTC 175**). The petitioner has also filed the copy of the R.C.Book to prove his ownership.

9. Considering the above, ordered as under:-

i. The Criminal Revision is allowed.

ii. The order, dated 22.12.2016, passed in Cr.M.P.No.556 of 2016, by the learned Sessions Judge, Mahalir Neethimandram, Thoothukudi, is set



iii. The learned Sessions Judge, will give the interim custody of Motorcycle viz., Bajaj Pulsur, bearing Reg.No.TN-69-AY-8023, to the revision petitioner, on proof of ownership produced by the Revision Petitioner.

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iv. The Revision Petitioner shall execute a personal bond for a sum of Rs.2,00,000/-, on the satisfaction of the said Sessions Judge.

v. The said vehicle shall be photographed, the signature of the Revision Petitioner shall be obtained and it shall be kept in the case records.

vi. Until final property order is passed in the said case, the Revision Petitioner shall not dispose of, alter or change the vehicle, and

vii. The Revision Petitioner shall cause the production of the vehicle as and when so ordered by the said Sessions Judge.

Sd/-

Assistant Registrar (CS-III)

/True Copy/

Sub Assistant Registrar

To

1. The Sessions Judge, Mahila Court,
Thoothukudi.
2. The Inspector of Police,
All Women Police Station,
Srivaigundam
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

MPK

TE/RSK : 18/05/2017 : 3P/4C

Pre-Delivery Order made in
Cr1.RC(MD)No.122 of 2017
Dated:- 11.05.2017