



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 18.05.2017

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

WEB COPY

Cr1.RC(MD)No.262 of 2017

and

Cr1.MP(MD)No.2328 of 2017

[Orders Reserved on 17.03.2017]

Murugesan

: Petitioner

Vs.

State, through  
The Inspector of Police,  
Devathanapatty Police Station,  
Theni District  
(Crime No.70 of 2017)

: Respondent

**Prayer:** Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to call for the records and set aside the impugned order, dated 02.03.2017 passed by the learned Sessions Court / Mahalir Neethimandram (Fast Track Mahila Court), Theni in Cr.M.P.No.378 of 2017 and pass necessary orders for the release of the petitioner's vehicle 'Piaggio Auto Rickshaw' (Tourer), bearing Regn.No.TN-57-BC-2620, which has been remanded by the learned Sessions Court / Mahalir Neethimandram (Fast Trck Mahila Court), Theni, relating to the case in Crime No.70 of 2017, on the file of the respondent Police.

For Petitioner

: Mr.M.Saravanan

For Respondent

: Mr.P.Kandasamy

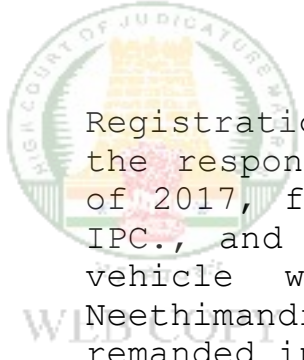
Government Advocate (crl.side)

ORDER

This Criminal Revision is filed praying to set aside the impugned order, dated 02.03.2017, passed by the learned Sessions Judge / Mahalir Neethimandram (Fast Track Mahila Court), Theni in Cr.M.P.No.378 of 2017 and pass necessary orders for the release of the petitioner's vehicle 'Piaggio Auto Rickshaw' (Tourer), bearing Regn.No.TN-57-BC-2620, which has been remanded by the said Court, in respect of the case in Crime No.70 of 2017, on the file of the respondent Police.

<https://hcservices.ecourts.gov.in/hcservices/>

2. The petitioner herein claims to be the owner of the vehicle viz., 'Piaggio Auto Rickshaw' (Tourer), bearing



Registration. No.TN-57-BC-2620. The said vehicle was seized by the respondent Police in connection with the case in Crime No.70 of 2017, for the alleged offence committed under Section 366-A of IPC., and Sections 6, 12 and 17 of POCSO Act, 2012. The seized vehicle was produced before the Sessions Court / Mahalir Neethimandram (Fast Track Mahila Court), Theni, and it was remanded in R.P.R.No.11 of 2017 by that Court.

3. The petitioner herein filed a Petition under Section 451 of Cr.P.C., in Cr.M.P.No.378 of 2017 before the said Court, asking interim custody of the vehicle in question. The said petition was heard by the learned Sessions Judge and dismissed that application. Aggrieved against the order of dismissal, the present Revision is preferred before this Court, for the afore stated relief.

4. The learned counsel appearing for the petitioner states that a case was registered in Crime No.70 of 2017 against the driver of the said vehicle viz., one Ramakrishnan and two others at Devathanapatty Police Station and the petitioner's Auto has been seized and produced before the Sessions Court / Mahalir Neethimandram (Fast Track Mahila Court), Theni, in which his Auto was said to be used for the commission of the offences and since the said vehicle was kept in open place, it would be damaged and his family members are only depending upon the income from the running of the above said vehicle. It is further submitted that there is no bar for the interim custody of the seized vehicle and also there is no rival claim in respect of the said seized vehicle in this case and there is no dispute that the petitioner is the owner of the seized vehicle.

5. The learned Government Advocate (crl.side) appearing for the respondent has not chosen to file any objection in the Revision, however, he reiterates the very same contention raised before the learned Sessions Court / Mahalir Neethimandram (Fast Track Mahila Court), Theni.

6. This Court has anxiously considered the rival submission advanced by either side and also perused the impugned order of dismissal and the materials on record.

7. Admittedly, the petitioner is not an accused in the said criminal case. His driver viz., Ramakrishnan shown as first accused in this case and he is said to have used the vehicle belonging to the petitioner herein for commission of the offences without the knowledge of the petitioner herein. There is no dispute that the petitioner is the owner of the seized vehicle. The petitioner has filed the copy of R.C. of that vehicle in which ~~he is shown as the owner of the said vehicle.~~ It is further stated that the said vehicle was hypothecated to 'Shriram Transport Finance Company Ltd', Madurai. This Court also



considers the Judgment of the Hon'ble Apex Court in **Sunderbhai Ambalal Desai Vs. State of Gujarat** reported in **(AIR 2003 SC 638)** .

8. In view of the foregoing, ordered as under:

(i) This Criminal Revision is allowed by setting aside the impugned order, dated 02.03.2017, passed by the learned Sessions Judge / Mahalir Neethimandram (Fast Track Mahila Court), Theni in Cr.M.P.No.378 of 2017.

(ii) The learned Sessions Judge. Theni will give interim custody of the vehicle, bearing Registration No.TN-57-BC-2620 to the Revision Petitioner on execution of a personal bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) to the satisfaction of the said Sessions Judge.

(iii) The said vehicle shall be photographed. The signature of the Revision Petitioner shall be obtained and it shall be kept in case records.

(iv) Until final property order is passed by the said learned Sessions Judge, the Revision Petitioner shall not dispose of or alter or change the vehicle.

(v) The Revision Petitioner shall surrender the R.C.Book of the said vehicle before the learned Sessions Judge.

(vi) The Revision Petitioner shall cause the production of vehicle, as and when ordered by the said Sessions Judge.

9. Consequently, the connected Criminal Miscellaneous Petition is closed.

Sd /-

ASSISTANT REGISTRAR(RECORDS)

/TRUE COPY/

SUB ASSISTANT REGISTRAR

To

1.The Sessions Judge /

Mahalir Neethimandram(Fast Track Mahila Court),Theni.

2.The Inspector of Police,

Devathanapatty Police Station, Theni District

3.The Additional Public Prosecutor,

Madurai Bench of Madras High Court,Madurai.

4.The Record Keeper,

Criminal Section Record,Madurai Bench of Madras High Court.

+1 CC TO M/S.M.SARAVANAN, ADVOCATE,SR NO.15413

MPK

MAS/MR/SAR1:24.05.2017:3P-6C

Pre-Delivery Order made in  
Crl.RC(MD)No.262 of 2017

Dated:-  
18.05.2017