



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 10.11.2017

(Orders Reserved on 23.10.2017)

CORAM:

THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED

Cr1.RC(MD)No.778 of 2017

V.Ganeshkumar : Petitioner / Petitioner

Vs.

The State, Rep.by
The Inspector of Police,
Meignanapuram Police Station,
Thoothukudi District
(Crime No.50 of 2017) : Respondent / Respondent

PRAYER: Revision is filed under Section 397 r/w 401 of Cr.P.C., praying to allow this Criminal Revision Petition by setting aside the order passed in Cr.M.P.No.6441 of 2017 by the learned Judicial Magistrate, Sathankulam, dated 09.08.2017.

For Petitioner : Mr.G.Thalaimutharasu

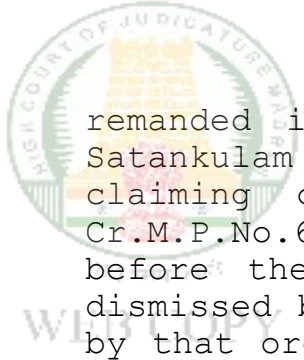
For Respondent : Mr.T.Mohan
Additional Public Prosecutor

ORDER

This Criminal Revision Petition has been filed praying to set aside the order dated 09.08.2017 passed in Cr.M.P.No.6441 of 2017 by the learned Judicial Magistrate, Sathankulam.

2. The Criminal Revision is taken up for final hearing, in the admission stage itself, with the consent of the learned counsel appearing for either side.

3.The petitioner is arrayed as an accused in Crime No.50 of 2017 registered on 16.02.2017 by the respondent Police for the offence punishable under Sections 294(b), 307 and 506(ii) of IPC. The two wheeler vehicle, bearing Registration No.TN-72-X-2023 said to be used by the accused in the occurrence and it was seized and



remanded in P.R.No.119 of 2017, before the Judicial Magistrate, Satankulam and the investigation is still pending. The petitioner claiming ownership of the said vehicle filed a petition in Cr.M.P.No.6441 of 2017, seeking interim custody of the said vehicle before the learned Judicial Magistrate, Sattankulam and it was dismissed by the said Court by order. dated 09.08.2017. Aggrieved by that order, the present Criminal Revision is filed to set aside the said order.

4.The learned counsel appearing for the petitioner would submit that there is no bar for interim custody of the seized vehicle to the petitioner, since there is no rival claim in respect of the said vehicle and keeping the seized vehicle would expose to sun and rain and day-by-day it loses its originality as well as its value.

5.The learned Additional Public Prosecutor appearing for the respondent has not chosen to file any written objection, but has submitted orally.

6.Perused the materials on record. Heard and considered the rival submissions made by either parties.

7.Admittedly, the petitioner is the owner of the said seized vehicle bearing Registration No.TN-72-X-2023 and the copy of the registration certificate of the vehicle is also produced for perusal of this Court, in which, the said vehicle was transferred to the name of the petitioner herein as per the endorsement dated 12.04.2017 by the Assistant Registration Authority, Tiruchendur. The said vehicle was also remanded to the custody of the learned Judicial Magistrate by the respondent Police. There is no rival claim in respect of the seized vehicle. The reasons assigned in the impugned order is against the principles laid down by the Hon'ble Apex Court in the Judgment in *Sundarbhai Ambalal Desai Vs. State of Gujarat* reported in (2003 (1) CTC 175). The learned counsel for the petitioner further relied the decision of this Court reported in *Murugesan Vs. State through the Inspector of Police, Devadanampattinam Police Station, Theni District (Crime No.70 of 2017)*. If the seized vehicle is kept idle in open sky, ultimately it will become a scrap value.

8. Considering the above facts and circumstances of the case and also following the dictum laid down by the Hon'ble Apex Court in the Judgment reported in (2003 (1) CTC 175) (cited supra), this Court is inclined to order as under.

9. In the result, the Criminal Revision Petition is allowed by setting aside the order impugned order, dated 09.08.2017 passed by the learned Judicial Magistrate, Sathankulam, in Cr.M.P.No.6441 of 2017 and the interim custody of the vehicle is ordered on the following conditions:-



(i). The learned Judicial Magistrate, Sathankulam, is directed to give interim custody of the vehicle two wheeler bearing Registration No.TN-72-X-2023, to the revision petitioner on his execution of a personal bond for Rs.1,00,000/- (Rupees One Lakh Only) to the satisfaction of the learned Magistrate and on production of the authenticated copy of the original R.C.Book in respect of the above vehicle standing in the name of the petitioner herein.

(ii). The said vehicle shall be photographed in different angles, at the cost of the petitioner herein and to be kept in the case records.

(iii). Proper Panchanama is to be prepared before handing over the production of the vehicle.

(iv) Until final property order is passed by the said Magistrate in this case, the revision petitioner shall not dispose of or alter and change the vehicle and

(v) The petitioner shall cause production of the vehicle, as and when ordered by the concerned Judicial Magistrate.

Sd/-
Assistant Registrar(CSI)

/True Copy/

Sub-Assistant Registrar

To

1.The Judicial Magistrate,
Sathankulam.

2.The Inspector of Police,
Meignanapuram Police Station,
Thoothukudi District

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

4. The Record Keeper,
Vernacular Section
Madurai Bench of Madras High Court.

+One cc to M/s.G.Thalaimutharsu, Advocate, SR.No.86739

MPK

RL/6C/2P/JC/SAR3/24/11/2017

Order made in
Cr1.RC(MD)No.778 of 2017

Dated:-
10.11.2017