

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 13.08.2019

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.R.C.No.648 of 2019

B.Sathish Kumar

... Petitioner

Vs.

State rep. by
Inspector of Police,
Anaicut Police Station,
Kancheepuram.

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 17.05.2019 passed in C.M.P.No.3084 of 2019 on the file of the Judicial Magistrate, Maduranthakam and to direct the respondent to return the vehicle viz. Hero Passion Pro bearing registration No.TN-19-AZ-4762 chassis No.MBLHAR189HHD72378 and engine No.HA10ACHHD10793 to the petitioner.

For Petitioner : Mr.R.Ragavendran

For Respondent : Mr.G.Ramar
Govt. Advocate (Crl. Side)

सत्यमेव जयते
O R D E R

This criminal revision has been filed seeking to set aside the order dated 17.05.2019 passed by the Judicial Magistrate, Maduranthakam in Crl.M.P.No.3084 of 2019.

2.On 15.04.2019, when the police were on rounds, they saw a person coming by a motorcycle bearing registration No.TN-19-AZ-4762, whose movements were suspicious. The police intercepted the motorcycle. On checking, he was found to carry 15 numbers of black magic IMFL bottles without license. Hence, a case in Crime No.79 of 2019 under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937 against Venuthkumar and the vehicle along

with the liquor bottles were seized. The petitioner, who is the owner of the motorcycle filed C.M.P.No.3084 of 2019 before the Judicial Magistrate, Maduranthakam under Sections 451 and 457 Cr.P.C. for interim custody of the motorcycle, which has been dismissed on 17.05.2019 on the ground that the same has not been produced before the Magistrate and that the police have initiated confiscation proceedings. Challenging the said order, this revision petition has been filed.

3.Heard the learned counsel for the petitioner and the learned Government Advocate (Crl. Side) appearing for the respondent State.

4.Learned Government Advocate (Crl. Side) submitted that the Inspector of Police has only sent a proposal to the Additional District Superintendent of Police, PEW, for initiating confiscation proceedings but, confiscation proceedings have not yet been initiated so far by issuance of notice. In David Vs. Sakthivel, Inspector of Police-cum-Station House Officer [(2010) 1 MLJ (Crl.) 929], a Division Bench of this Court has issued certain guidelines for dealing with such cases.

5.Learned Government Advocate (Crl. Side) also submitted that the records show that the petitioner is the owner of the motorcycle; he has not been implicated in this case; there is no previous case against him and the motorcycle was also not involved earlier; the motorcycle is now parked in the police station from 15.04.2019 and its value will naturally get diminished; and the Additional District Superintendent of Police has not issued any show cause notice to the petitioner so far.

6.In view of the law laid down by the Supreme Court in Sunderbhai Ambalal Desai Vs. State of Gujarat [(2002) 10 SCC 290], this Court is of the view that interests of justice will be served, if interim custody of the motorcycle is handed over to the petitioner on the following conditions :

- i. the respondent police is directed to produce the motorcycle before the Judicial Magistrate, Maduranthakam within one week from the date of receipt of a copy of this order;

ii.the petitioner shall execute a bond for Rs.25,000/- with two sureties to the satisfaction of the Judicial Magistrate, Maduranthakam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

iii.the petitioner shall take a photograph of the motorcycle and submit the same to the Judicial Magistrate, Maduranthakam along with a Compact Disc duly certified under Section 65-B of the Evidence Act;

iv.the petitioner shall handover a copy of the RC book to the police and to the Judicial Magistrate, Maduranthakam; and

v. the petitioner shall give an undertaking to produce the motorcycle as and when directed either by the Court or by the confiscation authority.

A copy of the undertaking shall be sent by the Judicial Magistrate, Maduranthakam to the Additional District Superintendent of Police, PEW.

This petition is allowed in the above terms.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

gya

To

1.The Judicial Magistrate,
Maduranthakam.

2.Additional District Superintendent of Police,
PEW, Kancheepuram District.

3.The Inspector of Police,
Anaicut Police Station,
Kancheepuram.

4.The Public Prosecutor,
High Court, Madras.

+1cc to M/s.R.Ragavendran, Advocate Sr.69019

Cr1.R.C.No.648 of 2019

srg 30/08/2019



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