

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 01.10.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.913/2019

Selvakumar

... Petitioner/Petitioner

Vs

The State represented by,
The Sub-Inspector of Police,
Perlam Police Station,
Thiruvarur District,
Cr.No.223/2019

... Respondent/Respondent

Prayer:- Petition filed under section 397 Cr.P.C., to set aside the order passed in Crl.M.P.No.2122/2019 dated 16.07.2019 on the file of the District Munsif Cum Judicial Magistrate, Nanillam and direct the District Munsif cum Judicial Magistrate to give the interim custody of the unregistered TVS XL 100 pending investigation seized in connection with Cr.No.223 of 2019 on the file of the respondent.

For Petitioner : Mr.T.Muruganatham

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

ORDER

This petition has been filed, seeking to set aside the order passed in Crl.M.P.No.2122/2019, dated 16.07.2019 on the file of the District Munsif Cum Judicial Magistrate, Nanillam and to direct the District Munsif cum Judicial Magistrate to give the interim custody of the unregistered TVS XL 100 pending investigation, seized in connection with Cr.No.223 of 2019 on the file of the respondent.

2 The learned counsel for the petitioner would submit that he is an agriculturist by profession and that he has purchased two wheeler TVS XL 100 moped on 26.04.2019, by availing loan from Sri Ram City Union Finance Limited. He would further submit that while the vehicle was taken for registration on the next day, the friend of the petitioner one Mohammad Sheikh Dawood had requested him to lend the vehicle to see a friend who was in hospital and out of compassion, he had given the vehicle to the said Mohammad Sheikh Dawood and without knowledge of the petitioner, the said Mohammad

Sheikh Dawood was alleged to have used the vehicle for doing illegal activity of transporting prohibited tobacco products and hence, the respondent has registered a case in Cr.No.223 of 2019 for the offence under Section 6 r/w 24(1) Cigarette and Other Tobacco products Act, 2003 and 328 of IPC.

3 He would further submit that the petitioner is an agriculturist and using his vehicle for his family and going to fields and that he is not an accused in the case registered by the respondent. He would further submit that the petitioner had filed the petition, seeking for return of vehicle and the Trial Court finding that the investigation is yet to be completed had dismissed the petition. He would further submit that the vehicle is not yet registered and that if it is left open it will lose its value.

4 The respondent has filed a counter stating that on 27.04.2018, the Inspector of Police along with the police personnel, while conducting checking for illegal business of Tobacco, found two persons to have illegally transported prohibited tobacco products worth about Rs.16,80,000/- and they were arrested and a case in Crime No.223 of 2019 was registered against them under relevant provisions and that vehicle was seized and produced before the learned District Munsif cum Judicial Magistrate, Nannilam dated 16.07.2019 and that the investigation is pending.

5 Taking into consideration the facts that petitioner is the owner of the vehicle and he is not an accused in this case and that the vehicle is yet to be registered, this Court is of the opinion that the vehicle may be handed over to the petitioner on certain conditions. The petitioner is directed to furnish the copy of Invoice & necessary proof that he is the owner and he shall file an affidavit of undertaking to produce the R.C.Book after registration of the vehicle and shall also to produce vehicle before the Trial Court as and when required.

6 In view of the above, the criminal revision petition is disposed of and the order passed by the Trial Court, dated 16.07.2019 made in CrI.M.P.No.2122/2019, on the file of the District Munsif Cum Judicial Magistrate, Nanillam is set aside and the District Munsif cum Judicial Magistrate is directed to give the interim custody of the unregistered TVS XL 100, pending investigation seized in connection with Cr.No.223 of 2019, subject to the following conditions:

a. the petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties. The petitioner shall furnish copy of invoice and other proof issued by the dealer to prove that he is the owner. On such production of poof the vehicle shall be returned to the petitioner.

b. The petitioner shall file an affidavit of undertaking that the vehicle will be registered within one month from

the date of release and that after Registration of the vehicle, the petitioner shall produce the RC book before the Trial Court and that he will not dispose or alter the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court for trial.

c. The RC book of the vehicle has to be produced before the Trial Court within two weeks of registration.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

To

- 1.The District Munsif-Cum-Judicial Magistrate,
Nanilam.
- 2.The Sub-Inspector of Police,
Perlam Police Station,
Thiruvarur District,
- 3.The Public Prosecutor,
High Court, Chennai.

+lcc to M/s.T.Muruganantham, Advocate Sr.84453

Cr1.R.C.No.913/2019

sj[col
srg 26/11/2019

WEB COPY