

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 19.09.2019

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.936 of 2019

Siva

..Petitioner/Owner of the property

-Vs-

State rep by the Forest Range Officer,
Thiruporur Forest Range,
Kancheepuram District.
(Crime No.1 of 2019)

..Respondent/Complainant

Prayer:- This Petition filed under section 397 r/w 401 Cr.P.C., to set aside the order dated 27.08.2019 made in Crl.M.P.No.6990 of 2019 on the file of the learned Judicial Magistrate No.II, Chengalpattu, Kancheepuram District, dismissing the petition to return the vehicle of Bajaj Motor Cycle bearing Registration No. TN-07-CL-7968 to the petitioner.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.M.Mohammed Riyaz, APP

ORDER

The Criminal Revision has been filed by the petitioner seeking to set aside the order dated 27.08.2019 made in Crl.M.P.No.6990 of 2019 on the file of the learned Judicial Magistrate No.II, Chengalpattu, Kancheepuram District, dismissing the petition to return the vehicle of Bajaj Motor Cycle bearing Registration No. TN-07-CL-7968 to him.

2 Heard both sides.

3 The learned counsel appearing for the petitioner would submit that petitioner is the owner of the property viz., Bajaj Motor Cycle bearing Registration No.TN-07-CL-7968 and would submit that the petitioner has been falsely implicated in the case registered by the respondent police in Crime No.1/2019, for the offences under Section 9, 44 and 51 of the Wild Life Protection Act, 1972. He would further submit that based on the false case, the two wheeler belonging to him was also seized by the respondent police and produced before the Court. He had

filed a petition before the learned Judicial Magistrate-II, Chengalpattu, seeking for return of the property and the learned Magistrate had dismissed the petition stating that the property was involved in the commission of offence under the Wild Life Protection Act and it is liable to be confiscated and would submit that, till date no confiscation has been initiated by the respondent police and that the petitioner has only sought for interim custody of the vehicle and would thereby, seek for return of property.

4 The respondent has filed a counter stating that the petitioner along with another accused was involved in the case and the petitioner was arrested on 05.01.2019 by the Forest Range Officer, Thiruporur, based on the secret information and that the petitioner had confessed that he along with the other accused Bala were hunting 12 birds using country gun and that based on the confession, 12 birds, country gun and two wheeler were seized under the cover of seizure mahazar.

5 The learned Additional Public Prosecutor would submit that the vehicle being involved in an offence under Section 39 of the Wild Life Protection Act, 1972, is liable for confiscation and forfeited as per Section 39 and 51(2) of the Wild Life Protection Act, 1972. He would further submit that the respondents are taking steps to initiate the proceedings for the confiscation and forfeiture of the vehicle.

6 Taking into consideration, the submission made by the learned counsel both sides and that confiscation proceedings have not been initiated till date, this Court is of the opinion that the interim custody of the vehicle may be granted to the petitioner imposing certain conditions.

7 In view of the same, the criminal revision petition is disposed and the order passed by the Trial Court, dated 27.08.2019 made in CrI.M.P.No.6990 of 2019, on the file of the learned Judicial Magistrate No.II, Chengalpattu, Kancheepuram District, is hereby set aside and that the learned Magistrate is directed to return the vehicle, subject to the following conditions:

a. the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties.

b. the petitioner shall file an affidavit of undertaking that he will not dispose or alter the physical features of 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 shall be retained by the Trial Court till the disposal of the trial until further orders.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

To

1. The Judicial Magistrate No.II,
Chengalpattu, Kancheepuram District.

2.The Forest Range Officer,
Thiruporur Forest Range,
Kancheepuram District.

3.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.R.Sasi Kumar, Advocate, SR.No.80565

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Kak(04/11/2019)



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