

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 10.04.2019

CORAM:

THE HONOURABLE MR. JUSTICE P.VELMURUGAN

Crl.R.C.No.1464 of 2018

Sivaoli

...Petitioner

-Vs-

The State

Rep. by its Inspector of Police,
F-2, Auroville Police Station,
Villupuram, Vanur Taluk,
Villupuram District.
Crime No.419 of 2018

...Respondent

This Criminal Revision Petition is filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order dated 09.11.2018 made in Crl.M.P.No.997 of 2018 on the file of the learned Judicial Magistrate Court, Vanur and consequently direct the respondent to return the petitioner vehicle bearing registration No.PY 01 VB 0513 Pulsar 150, (EBONY BLK BLUE DKL).

For Petitioner : Mr.Prakash Adiyapadam

For Respondent : Mr.R.Ravichandran
Govt. Advocate (Crl. Side)

O R D E R

The above Criminal Revision has been filed to set aside the order dated 09.11.2018 in Crl.M.P.No.997 of 2018, on the file of the learned Judicial Magistrate Court, Vanur and consequently, direct the respondent to return the petitioners vehicle bearing registration No.PY 01 VB 0513, Pulsar 150.

2. The respondent police registered a case in Crime No.419 of 2018 against the revision petitioner for the offence under Sections 147, 148, 341, 302 read with 3(b) of I.E.S. Act. During investigation, the respondent police seized the vehicle bearing Registration No.PY 01 VB 0513. The revision petitioner has filed a private complaint under Sections 457 and 451 of Cr.P.C. before the learned Judicial Magistrate, Vanur, to return the vehicle.

3. The learned Magistrate, after enquiry, dismissed the petition on the ground that investigation is not completed and

charge sheet is not yet filed. Challenging the order passed by the learned Judicial Magistrate in C.M.P.No.997 of 2018, dated 09.11.2018, the petitioner has preferred this present revision before this Court.

4. The main contention raised by the learned counsel for the revision petitioner is that due to non usage of the vehicle for a long time, parts of the vehicle could get rusted and hence, to conserve the vehicle, the petitioner sought for interim custody of the vehicle and he undertakes to produce the vehicle during trial before the Court. Once the vehicle was seized by the respondent police and produced before the Court, whatever the situation, the Court has to return the vehicle to the owner. The learned Magistrate has failed to do the same. Therefore, the learned counsel prays to set aside the order passed by the learned Judicial Magistrate.

5. In support of his contention, the learned counsel has placed reliance on the judgment of the Hon'ble Apex Court in the matter of Sunderbha Ambalal Desai Vs. State of Gujarat (2002) 10 SCC 283 and this Court in the matter of Lenovo India Pvt. Ltd and another Vs. The Inspector of Police, M-2 Madhavaram Police Station (Crime) Chennai in Crl.O.P.No.27812 of 2013. The learned Magistrate has failed to consider these aspects and dismissed the petition, which warrants interference.

6. The learned counsel for the respondent would submit that when investigation is pending, vehicle cannot be returned to the owner. As on date, on which the petitioner filed petition seeking return of vehicle, investigation was not completed. Therefore, the order passed by the learned Magistrate is correct.

7. Heard the learned counsel appearing for the revision petitioner as well as the learned Government Advocate and perused the materials available on record.

8. On a reading of Section 452 Cr.P.C., it is seen that when an enquiry or trial in any Criminal Court is concluded, the Court may make such order as it thinks fit for the disposal, by destruction, confiscation or delivery to any person claiming to be entitled to possession thereof or otherwise, of any property or document produced before it or in its custody, or regarding which any offence appears to have been committed, or which has been used for the commission of any offence.

9. In this case, as correctly pointed out by the learned Government Advocate, investigation is pending and charge sheet is yet to be filed. In case, the vehicle is ordered to be handed over to the petitioner, there is every chance of vehicle being

tampered or vehicle being sold to some other third party, which will all effect the trial.

10. It is true that if the vehicle is kept idle, exposed to sun and rain, there is other possibility of the vehicle becoming rusted and its value getting diminished. Therefore, in order to strike a balance between and render justice, it will be safe to return the vehicle to the petitioner after the charge sheet is laid.

11. Under these circumstances, the Criminal Revision Case is dismissed. However, the liberty is granted to the petitioner to move the learned Magistrate for returning of vehicle, after filing the charge sheet. In case any such application is filed, the learned Magistrate is at liberty to consider the such claim on merits and pass appropriate orders in accordance with law.

Sd/-

Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court,
Vanur.
2. The Public Prosecutor,
High Court, Madras.
3. The Inspector of Police,
F-2, Auroville Police Station,
Villupuram, Vanur Taluk,
Villupuram District.

+1 cc to M/s.Prakash Adiapadam, Advocate, Sr.No. 35673

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CSL/25.06.2019

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