



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.07.2019

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.362 of 2019

Deepa

: Petitioner/Petitioner

Vs.

1.State represented by  
The Inspector of Police,  
Melur Police Station,  
Madurai District.  
(Crime No.136 of 2019)

2.The Inspector of Police,  
District Crime Branch,  
Madurai District,  
Madurai.

: Respondents/Respondents

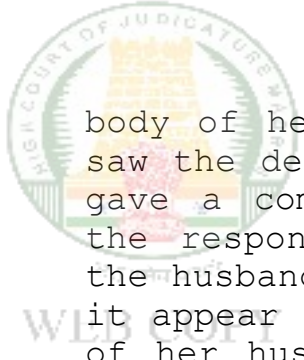
**Prayer:** This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, against the order, dated 13.05.2019 made in Cr.M.P.No.1996 of 2019 on the file of the Judicial Magistrate, Melur, in connection with a case in Crime No.136 of 2019.

For Revision Petitioner : Mr.M.Saravanan

For Respondents : Mr.APG Ohm Chairma Prabhu  
Government Advocate  
(Criminal side)

**O R D E R**

The petitioner claims that her husband is the owner of the vehicle (Hero Passion) bearing Registration No.TN-63-BA-1354. On 28.02.2019 the husband of the petitioner went to Madurai carrying huge amount with him in connection with his business in his Hero Passion motor cycle and he informed the petitioner at about 9.30 pm through his cell phone that he was coming near Navinipatti Village on his return journal and at about 12.45 am, on 29.02.2019, one Mayaprabhu @ Rajkumar contacted the petitioner through her husband cell phone and informed that her husband was found dead with head injury near Chokkanchetty Kanmai on Thiruppathur-Navinipatti Road and when the petitioner rushed to the above said place, she learned that the respondent police had taken



body of her husband to the Government Hospital, Melur, where she saw the dead body of her husband with injury on his head and she gave a complaint to the respondent police. After investigation, the respondent police reveals that certain accused had murdered the husband of the petitioner for ransom and created scene to make it appear that it was a case of accident by leaving the dead body of her husband on the road and placing the motor cycle near the dead body and for that, the respondent police sent a report before the court below and now the motor cycle of the petitioner seized by the respondent and it is in the judicial custody.

2. Seeking return of the said vehicle, the petitioner filed a petition before the learned Judicial Magistrate, Melur, for interim custody. The learned Magistrate, by order, dated 13.05.2019 has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

3. Heard the learned counsel appearing on either side and perused the materials available on record.

4. The only ground upon which the lower court has dismissed the petition is that since the investigation is pending, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Magistrate is not correct. It is well settled that during the pendency of confiscation proceeding, the vehicle needs to be returned to the person, who is entitled to have. This return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

5. In view of the above, this criminal revision is **allowed** and the order of the learned Judicial Magistrate passed in CrI.M.P.No.1996 of 2019, dated 13.05.2019 is set aside and the learned Magistrate is directed to return the vehicle to the petitioner on the following conditions:-

**(a) The petitioner shall deposit the original Registration Certificate of the vehicle;**

**(b) The petitioner shall deposit a sum of Rs.10,000/- (Rupees Ten thousand only) to the credit of Crime No.136 of 2019 on the file of the Judicial Magistrate, Melur, within a period of two weeks from the date of receipt of a copy of this order;**

**(c) The petitioner shall not make any alteration of the vehicle; and**



(d) The petitioner shall produce the same before the Court as and when required, until final order is passed in the confiscation proceedings.

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Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar (CS)

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To

1. The Judicial Magistrate,  
Melur.
2. The Inspector of Police,  
Melur Police Station,  
Madurai District.
3. The Inspector of Police,  
District Crime Branch,  
Madurai District,  
Madurai.
4. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court,  
Madurai.

+ 1 CC to Mr.M.Saravanan, Advocate in SR.NO.73834

Order made in  
Crl.R.C (MD) No.362 of 2019

05.07.2019

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