



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.09.2019

CORAM

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.326 of 2019

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P.Arumugam

: Petitioner/Petitioner

Vs.

The State represented by
The Inspector of Police,
M.Pudhupatti Police Station,
Virudhunagar District.
Crime No.41 of 2019.

: Respondent/Respondent

Prayer: This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, against the order, dated 10.05.2019 passed in Cr1.M.P.No.3506 of 2019 by the Judicial Magistrate No.II, Sivakasi.

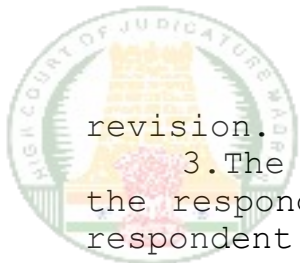
For Revision Petitioner : Mr.M.Jothi Basu

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

O R D E R

The petitioner claims to be the owner of the vehicle (Two Wheeler Hero Duet Bike) bearing Registration No.TN-95-B-2322. The respondent police seized the vehicle in connection with a case in Crime No.41 of 2019 for the offence under Section 4(1)(a) of Tamil Nadu Prohibition Act, 1937. The petitioner, being the lawful owner of the alleged vehicle, filed a petition in Cr.M.P.No.3506 of 2019 on the the Judicial Magistrate No.II, Sivakasi, seeking for interim custody, which was dismissed on 10.05.2019. Challenging the said order, the petitioner is before this Court with this revision.

2.The learned counsel for the petitioner submitted that the trial court failed note the fact that on 06.09.2018, the petitioner purchased the vehicle and the value of the vehicle is Rs.80,000/- and obtained a loan of Rs.51,900/- from Shriram City Union Finance Limited, Virudhunagar and the petitioner is liable to pay Rs.4,152/- per month to the Finance Company as an instalment and that at the time of disposing the petition by the trial court, the respondent police did not take any steps to confiscate the vehicle under Tamil Nadu Prohibition Act, 1937 and that the trial Judge has failed to ascertain the claim of the petitioner as only an interim arrangement as to the custody of the vehicle and prays for allowing the



revision.

3.The learned Government Advocate (Criminal side) appearing for the respondent submitted that the alleged vehicle was seized by the respondent in connection with a case in Crime No.41 of 2019 for the alleged offence under Section 4(1)(a) of Tamil Nadu Prohibition Act.

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

5.The only ground upon which the lower court has dismissed the petition is that confiscation proceedings is pending. According to the lower court, since such proceeding was 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.

6.In view of the above, this criminal revision is **allowed** and the order of the learned Magistrate No.II, Sivakasi, in CrI.M.P.No.3506 of 2019, dated 10.05.2019 is set aside. 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.41 of 2019 on the file of the Judicial Magistrate No.II, Sivakasi, 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.

Sd/-

Assistant Registrar

// True Copy //

Sub Assistant Registrar(CS)



To

1.The Judicial Magistrte No.II,
Sivakasi.

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2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1CC TO MR.G.M.JOTHI BASU, Advocate Sr. No. 88018

Order made in
Cr1.R.C (MD) No.326 of 2019
20.09.2019

KM(CO)
TR(21.10.2019) 3P 4C