



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.08.2019

CORAM

THE HONOURABLE MRS.JUSTICE T.KRISHNAVALLI

Cr1.RC(MD)No.479 of 2019

and

Cr1.MP(MD)No.6522 of 2019

Saranya : Petitioner/Petitioner

Vs.

State through
The Inspector of Police,
Gandharvakottai Police Station,
Pudukkottai. : Respondent/Respondent

Prayer: This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, against the order, dated 04.06.2019 made in Cr1.M.P.No.2445 of 2010 on the file of the Judicial Magistrate No.1, Pudukkottai.

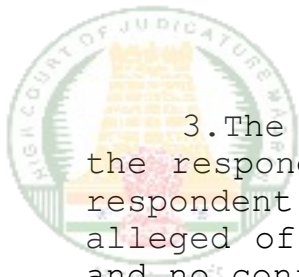
For Revision Petitioner : Mr.G.Mathavan

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 (Honda Dio Motor Cycle) bearing Registration No.TN-55-AK-0138 and the above vehicle was used by the petitioner's brother namely Prabhu and one Sathiyaraj @ Sakthi, who is the friend of his brother requested him to give the vehicle for one day and thereafter, the petitioner came to understand that the respondent police registered a case against the said Sathiyaraj @ Sakthi for the offence under Section 4(1)(d) of the Tamil Nadu Prohibition Act and the vehicle was seized on 14.04.2019. The petitioner, being the lawful owner of the alleged vehicle, filed a petition in Cr.M.P.No.2445 of 2010 on the the Judicial Magistrate No.1, Pudukkottai for interim custody, which was dismissed on 04.06.2019. Challenging the said order, the petitioner is before this Court with this revision.

2.The learned counsel for the petitioner submitted that learned Judicial Magistrate No.1, Pudukkottai, has failed to ascertain 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.92 of 2019 for the alleged offence under Section 4(1)(d) of Tamil Nadu Prohibition Act and no confiscation proceeding is pending.

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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.1, Pudukkottai in CrI.M.P.No.2445 of 2019, dated 04.06.2019 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.92 of 2019 on the file of the Judicial Magistrate No.I, Pudukkottai, 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.

Consequently, connected Miscellaneous Petition is closed.

Sd/-

Assistant Registrar(CO)

/TRUE COPY/



To,

1.The Judicial Magistrate No.1,
Pudukkottai.

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

+1. C.C. to M/S.G.Mathavan, Advocate SR.No. 82478

Order made in
Cr1.R.C (MD) No.479 of 2019
20.08.2019

er

JM/26.08.2019/3P/4C