



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.08.2019

CORAM

WEB COPY

THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.R.C(MD)No.555 of 2019
and Crl.M.P.(MD)No.7103 of 2019

Sundarapandi @ Veench

... Petitioner/ Complainant

Vs.

State through
The Inspector of Police,
Vasudevanallur Police Station,
Tirunelveli District.

... Respondent/ Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records relating to the order passed by the learned District Munsif Cum Judicial Magistrate, Sivagiri in Crl.M.P.No.1845 of 2019 dated 01.07.2019 set aside the same and allow this revision petition.

For Petitioner : Mr.C.Susi Kumar

For Respondent : Mr.R.Anantharaj,
Additional Public Prosecutor

ORDER

The petitioner claims to be the owner of the vehicle (Royal Enfield Bike) bearing Registration No.TN-79-D-3965. On 02.12.2018, the respondent police found the said vehicle carrying a gunny bag containing things which is used for preparing illicit arrack and hence, the respondent police registered a case in Crime No.267 of 2018 under Sections 4(1)(g) and 4(1-A) of the Tamil Nadu Prohibition Act, and seized the said vehicle. Seeking return of the said vehicle, the petitioner filed a petition before the learned District Munsif Cum Judicial Magistrate, Sivagiri, for interim custody. The learned Magistrate, by order dated 01.07.2019, has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

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

3.Mr.R.Anantharaj, learned Additional Public Prosecutor has strongly opposed to release the vehicle.



4.The only ground upon which the lower court has dismissed the petition is that already confiscation proceeding had been initiated as against the vehicle in question. 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. The return will have no impact on the confiscation proceeding, as the confiscation proceeding is an independent proceeding.

5.In view of the above, this revision is allowed and the order of the learned District Munsif Cum Judicial Magistrate, Sivagiri, in CrI.M.P.No.1845 of 2019 is set aside and the learned Magistrate is directed to return the vehicle subject to the confiscation proceedings 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.267 of 2018 on the file of the District Munsif Cum Judicial Magistrate, Sivagiri, 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;

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

6.The authority may proceed with the confiscation proceedings and the petitioner shall obey any order that may be passed in the said proceeding by the authority. Consequently connected miscellaneous petition is closed.

Sd/-

Assistant Registrar (CO)

// True Copy //

Sub Assistant Registrar

TO

1.The District Munsif Cum Judicial Magistrate,
Sivagiri.

2.The Inspector of Police,
Vasudevahallur Police Station,
Tirunelveli District.



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

+1 CC to M/s.C.SUSIKUMAR, Advocate (SR-84138[F] dated 29/08/2019)

Cr1.RC (MD) No.555 of 2019
27.08.2019

GNS
MS/06.09.2019/3P.5C