



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 20.12.2019

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THE HONOURABLE MRS. JUSTICE T.KRISHNAVALLI

Crl.RC(MD)No.932 of 2019

WEB COPY

John Jajiphel Jaani : Petitioner/Petitioner

Vs.

The Sub Inspector of Police,
Thuckalay Police Station,
Kanyakumari District. : Respondent/Complainant

Prayer: This Criminal Revision has been filed under Sections 397 and 401 of Criminal Procedure Code, against the order passed in Crl.MP No.3672 of 2019 by the Judicial Magistrate No.1, Padmanabhapuram, dated 28.11.2019.

For Revision Petitioner : Mr.K.P.Narayanakumar
Mr.A.Balakrishnan

For Respondent : Mr.A.P.G Ohm Chairma Prabhu
Government Advocate
(Criminal side)

O R D E R

The petitioner claims to be the owner of the vehicle (Scooty Pep) bearing Registration No.TN-75-U-1696. According to the respondent, on 03.11.2019 the brother of the petitioner drove the vehicle in drunken mood without any valid licence and registered a petty case vide notice No.15C 7214205 for the offence punishable under sections 185 and 181 r/w 3 of the Motor vehicles Act and the said vehicle was seized and surrendered before the court in RP No.156 of 2019. The petitioner, being the lawful owner of the alleged vehicle, filed a petition in Crl.M.P.No.3672 of 2019 on the file of the Judicial Magistrate No.1, Padmanabhapuram for interim custody, which was dismissed on 28.11.2019. 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, Padmanabhapuram, 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 for the alleged offence under sections 185 and 181 r/w 3 of the Motor Vehicle Act and no confiscation proceeding is pending.



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 if the vehicle is released to the owner, who has let the accused to drive the two wheeler in drunken mood and without valid licence, it would cause prejudice. According to the lower court, the petition for interim custody of the vehicle is not maintainable. The view taken by the learned Magistrate is not correct. Further, 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, Padmanabhapuram in Crl.M.P.No.3672 of 2019, dated 28.11.2019 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 R.P No.156 of 2019 on the file of the Judicial Magistrate No.I, Padmanabhapuram, 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.

Sd/-

Assistant Registrar (AD II)

// True Copy //

Sub Assistant Registrar(CS)

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To

1.The Judicial Magistrate No.1,
Padmanabhapuram.

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

3.The Sub Inspector of Police,
Thuckalay Police Station,
Kanyakumari District.

+1 CC to M/s.K.P.NARAYANAKUMAR, Advocate (SR-106337[F] dated
20/12/2019)

Order made in
CrI.R.C (MD) No.932 of 2019
20.12.2019

KK/SAR/20.12.2019/3P-5C/