

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.03.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.RAJAMANICKAM

Cr1..RC.No.373 of 2020

B.Sathyakala

.. Petitioner

Vs.

The State rep by its
Inspector of Police (Crimes)
S-1, St.Thomas Mount Police Station,
Alandur, Chennai District.
(Crime No.43 of 2019)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Cr.P.C, to set aside the order passed by the Hon'ble Judicial Magistrate No.1 at Alandur in Cr1.MP.No.31 of 2020 dated 20.01.2020 and order for return of the vehicle Yamaha Fascino BS-III Two wheeler, bearing Regn.No.TN-85-D-4808 of the year model 10/2016, seized by the respondent police in Crime No.43 of 2019 on the file of the respondent police to the custody of the petitioner herein.

For Petitioner : Mr.M.Ravikumar
For Respondents : Mr.T.ShunmugaRajeswaran
Government Advocate (Cr1.Side)

ORDER

This petition has been filed to set aside the order passed by the Judicial Magistrate-I, Alandur in Cr1.MP.No.31 of 2020 dated 20.01.2020.

2. The learned counsel for the petitioner has submitted that the petitioner has purchased the Two Wheeler bearing Regn.No.TN-85-D-4808 on 05.12.2016 itself. He further submitted that the respondent has registered an FIR against the petitioner's husband only on 27.02.2019 in Crime No.43 of 2019 under Section 379 of IPC alleging that the he has stolen certain jewels. He further submitted that during investigation, the petitioner's husband was arrested and it was alleged that he gave a confession that he purchased the aforesaid motor vehicle by way of selling of the stolen gold jewels concerned in the above case. He further submitted that since the petitioner has purchased the said motor vehicle even in the year 2016 itself,

the contention of the respondent that the petitioner's husband purchased the said vehicle only by selling of the stolen gold jewels which are involved in Crime No.43 of 2019 is totally false. Hence, the petitioner has filed an application before the learned Judicial Magistrate-I, Alandur seeking to return the said vehicle for interim custody. The learned Judicial Magistrate without the considering the aforesaid facts has dismissed the said petition and hence, he requests to set aside the said order and direct the concerned Judicial Magistrate to return the vehicle to the petitioner for interim custody.

3. Per Contra, the learned Government Advocate (Crl.Side) who is appearing for the respondent has submitted that as per the confession given by the petitioner's husband, he purchased the aforesaid motorcycle only by selling the stolen gold jewels which are involved in the Crime No.43 of 2019. Taking into consideration of the said fact, the learned Judicial Magistrate No.1, Alandur has rightly dismissed and in the said order this Court need not interfere and hence, he prayed to dismiss this petition.

4. The petitioner has produced a xerox copy of RC which shows that she purchased the two wheeler bearing Regn.No.TN-85-D-4808 on 05.12.2016 itself, whereas the FIR was registered only on 27.02.2019, based on the complaint said to have been lodged by one Suganya. A perusal of the said FIR shows that the occurrence itself took place only on 25.02.2019 and that being so, the contention of the respondent that the aforesaid motorcycle was purchased only by selling the stolen gold jewels involved in the aforesaid crime number cannot be accepted. Further, the petitioner is seeking only interim custody. Therefore, the impugned order passed by the learned Judicial Magistrate No.1 in Crl.MP.No.31 of 2020 dated 20.01.2020 is liable to be set aside.

5. In the result, this Criminal Revision Petition is allowed. The order passed by learned Judicial Magistrate No.1, Alandur in Crl.MP.31 of 2020 is set aside and the learned Judicial Magistrate No.1, Alandur is directed to return the aforesaid vehicle to the petitioner with the following conditions:

- (i) The petitioner shall execute a bond of Rs.1,00,000/- with one surety for like sum.
- (ii) The petitioner shall produce the original RC book before the trial court.
- (iii) The petitioner shall not alienate or hypothecate the said vehicle without getting permission from the trial court.

(iv) As and when required, the petitioner shall produce the said vehicle before the trial court.

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate No.1,
Alandur.
 2. The Inspector of Police (Crimes)
S-1, St.Thomas Mount Police Station,
Alandur, Chennai District.
 3. The Public Prosecutor,
Madras High Court,
Chennai.
- +1 cc to M/s.M.Ravi Kumar, Advocate Sr.No. 18046

AKM/04.03.2020/3P-5C /

Crl.RC.No.373 of 2020

सत्यमेव जयते

WEB COPY