

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.08.2020

CORAM:

THE HONOURABLE Mr.JUSTICE P.N.PRAKASH

Crl.R.C.No.615 of 2020

Damodaran,
S/o.Rajendran,
Keel Sengal Medu,
Kollapuram,
Ariyalur District.

..Petitioner/ owner of the vehicle

Vs.

State represented by
The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
(Crime No.314 of 2019)

.. Respondent/ Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C.,
to set aside the order dated 26.02.2020 passed in Crl.M.P.No.66
of 2020 on the file of the District Munsif-cum-Judicial
Magistrate Court, Tharangampadi.

For Petitioner : Mr.M.Guruprasad
For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Crl.Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set
aside the order dated 26.02.2020 passed in Crl.M.P.No.66 of 2020
on the file of the District Munsif-cum-Judicial Magistrate
Court, Tharangampadi.

3. The vehicle (Honda Shine Motorcycle bearing
Registration No.TN-61-S-0519) of the petitioner was intercepted
by the police on 16.12.2019 and it was found transporting 110
litres of Pudhuchery arrack. Therefore, the police registered a
case in Perambur Police Station Crime No.314 of 2019 on
16.12.2019 for the offences under Section 4(1)(aaa) and 4(1-A)
of the Tamil Nadu Prohibition Act, 1937 (for brevity "the TNP
Act") and arrested Venkatesh and Paramasivam. The petitioner is
not named in the FIR. The petitioner filed Crl.M.P.No.66 of 2020

under Section 457 Cr.P.C. for interim custody of the vehicle and the same was dismissed by the District Munsif-cum-Judicial Magistrate, Tharagampadi, on 22.07.2020, aggrieved by which, the petitioner is before this Court.

4. Heard Mr.M.Guruprasad, ,learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) for the respondent/State.

5. On instructions, Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) submitted that confiscation proceedings under the TNP Act has not yet been initiated. It is also seen that the petitioner has not been named in the FIR as accused.

6. Taking into consideration the fact that the seizure was effected on 16.12.2019 and the vehicle is kept in the police station open to sun and rain, applying the law laid down by the Supreme Court of India in *Sunderbhai Ambalal Desai vs. State of Gujarat*¹, this Court is of the view that interests of justice will be served if the interim custody of the vehicle is given to the petitioner.

7. As a result, this revision petition is allowed by setting aside the order dated 26.02.2020 passed in Crl.M.P.No.66 of 2020 on the file of the District Munsif-cum-Judicial Magistrate Court, Tharangampadi and interim custody of the vehicle is granted to the petitioner with the following conditions:

- (i) The petitioner shall execute a personal bond for a sum of Rs.30,000/- (Rupees Fifty Thousand only) with two sureties each, for a like sum to the satisfaction of the District Munsif-cum-Judicial Magistrate Court, Tharagampadi. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;
- (ii) The petitioner shall give an undertaking before the respondent/ authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent/trial Court is at liberty to confiscate the vehicle;

1 (2002) 10 SCC 290

- (iii) The petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned and submit the same as and when required by the authorities for confiscation proceedings;
- (iv) The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;
- (v) The petitioner shall surrender the original R.C. book before the District Munsif-cum-Judicial Magistrate, Tharangampadi;
- (vi) The petitioner shall participate in the enquiry to be conducted by the respondent; and
- (vii) The respondent shall produce the vehicle before the District Munsif-cum-Judicial Magistrate, Tharangampadi, forthwith, if not already produced.

Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District Munsif-cum-Judicial Magistrate, Tharangampadi, who may consider the same on merits, though this order has been passed by the High Court.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

1. The District Munsif-cum-Judicial Magistrate,
Tharangampadi.
2. The Inspector of Police,
Perambur Police Station,
Nagapattinam District.
3. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

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RSK(CO)
GN(24/09/2020)