

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2020

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Cr1.R.C.No.998 of 2020

Ruthrakumaran

... Petitioner

Vs.

The State rep by,
The Sub Inspector of Police,
Madurantakam Police Station,
Kancheepuram District.
Cr.No.58 of 2020

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records relating to the order dated 23.10.2020 passed by the learned Judicial Magistrate, Madurantakam in C.M.P.No.1741/2020 and set aside the same.

For Petitioner : Mr.G.Magesh Kumar
For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner, who is the owner of the vehicle viz., Hero Splendor Plus bearing Registration Number TN 97 A 0434, has filed a petition before the learned Judicial Magistrate, Madurantakam under Sections 451 and 457 Cr.P.C., seeking return of property. The learned Judicial Magistrate, Madurantakam, by order, dated 23.10.2020, dismissed the same, against which the present revision.

2.The case is that on 13.02.2020, the defacto complainant Vimalkumar, Driver after his duty, at about 10.30 p.m., reached home and was opening the main gate. At that time, one person came in black colour Hero Splendor Plus bike, asked water to drink. The defacto complainant entered the house and to bring water. When he came out from the house, the person and the bike were not available and the bag was found missing. The defacto complainant raised alarm that the said person had stolen his bag containing 900 rupees, bills and visiting cards. The defacto complainant lodged a complaint to the respondent Police on 14.02.2019. Thereafter, the said person arrested and the bike was seized with Registration Number TN 97 A 0434, Engine Number HA10AGKHL 14433 and Chassis Number MBLHAW08XRHL07141. On coming to know about the same, the

petitioner filed petition for return of the property before the learned Judicial Magistrate, Madhurantakam. The learned Judicial Magistrate, Maduranthakam, by order, dated 23.10.2020 in C.M.P.No.1741 of 2020, dismissed the same, against which the present revision.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle viz., Hero Splendor Plus bearing Registration Number TN 97 A 0434. The petitioner purchased the vehicle for own use and for his personal work. He further submitted that the petitioner is no way connected with the offence as alleged by the prosecution and his bike was misused by the accused in Crime No.58 of 2020. Further, the vehicle is kept in open yard of the police station and exposing to sunlight and rain and the condition of the vehicle is getting diminished. The lower Court dismissed the petition for the reason that the registration number was not found in the bike. During commission of the offence, the number plate of the vehicle might have been removed by the accused and the petitioner is not the reason for the same. The learned counsel further submitted that the petitioner should produce the Registration Certificate of the vehicle, in which, the Engine Number and Chassis Number would reflect and it would prove that the petitioner is the owner of the vehicle.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and made his submission that the defacto complainant in Crime No.58 of 2020 lodged a complaint that on 13.02.2020, at about 10.30 p.m., when he returned home, one unknown person stopped his bike without number plate and asked him water for drinking. The defacto complainant kept his bag outside and went inside the house to bring water. The said person had stolen the bag containing some money and other articles. Later, he lodged a complaint to the Police. Thereafter, the said person Prabhakaran was arrested, who misused the bike of the petitioner. In his confession, he stated that he removed the number plate of the vehicle. It is further seen that the said Prabhakaran is the friend of the petitioner. During investigation, the vehicle was seized and the same was produced before the lower Court in P.I.No.56 of 2020, dated 15.10.2020.

5.On considering the rival submission and on perusal of the materials, it is seen that the petitioner is not an accused in this case and his friend Prabhakaran misused his vehicle in commission of the offence, for which the petitioner cannot be faulted with. Following the guidelines issued in the case of "Sunderbhai Ambalal Desai Versus State of Gujarat reported in (2002) 10 SCC 283" and the vehicle has been kept in open yard of the Police Station and thereby, the value of the vehicle is getting diminished, this Court is inclined to return the vehicle viz., Hero Splendor Plus bearing Registration Number TN 97 A 0434 to the petitioner.

custody the vehicle is presently kept are directed to grant custody of the said vehicle viz., Hero Splendor Plus bearing Registration Number TN 97 A 0434 to the petitioner subject to the following conditions:-

(i) The petitioner shall produce the original RC Book and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the revision petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iii) The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand) to the satisfaction of the learned Judicial Magistrate, Madhurantakam.

(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

7. In view of the above, the order dated 23.10.2020 made in C.M.P.No.1741 of 2020, by the learned Judicial Magistrate, Madhurantakam is, hereby, set aside and the revision is, accordingly, allowed.

Sd/-

Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate Court,
Madhurantakam.

2. The Sub Inspector of Police,
Madurantakam Police Station,
Kancheepuram District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr. G.Magesh Kumar, Advocate, S.R.No. 41458

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