

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.12.2020

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1140 of 2020

Rajasekar @ Rajasekaran

... Petitioner

Vs.

State rep. by,
The Station House Officer,
Mappedu Police Station,
Tiruvallur District.
(Crime No.1043 of 2020)

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 07.11.2020 made in Crl.M.P.No.2806 of 2020 on the file of Judicial Magistrate, Tiruvallur-II to return the two wheeler bearing registration No.TN-20-CR-6921 to the petitioner herein.

For Petitioner : Mr.V.Shivalingam

For Respondent : Mr.C.Iyyappa Raj,
Additional Public Prosecutor

ORDER

The petitioner/accused in Crime No.1043 of 2020, for offence under Sections 447, 294(b), 324, 506(i) of IPC and Section 4 of Tamil Nadu Prohibition of Women Harassment Act, filed a petition under Sections 451 & 457 Cr.P.C., before the learned Judicial Magistrate No.II, Tiruvallur, seeking

return of his vehicle viz., Yamaha FZ bearing registration number TN 20 CR 6921. The learned Judicial Magistrate No.II, Tiruvallur, by order, dated 07.11.2020 in Crl.M.P.No.2806 of 2020, dismissed the petition, aggrieved against the same, the present revision.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle viz., Yamaha FZ bearing registration number TN 20 CR 6921, which was seized by the respondent in Crime No.1043 of 2020. He further submitted that the petitioner is an Advocate by profession and using the vehicle to attend his office, Courts and professional work. The vehicle was seized by the respondent Police in the above case, now kept the vehicle in open yard of the Police Station, exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished day by day. Further, placed reliance on the decision of the Hon'ble Supreme Court in the case of ***“Sunderbhai Ambalal Desai Vs. State of Gujarat*** reported in ***MANU/SC/1110/2002***” and the decision of this Court in the case of ***“Selvam & Another Vs. State by Inspector of Police, Theevatipetti Police Station & Another”*** reported in ***CDJ 2012 MHC 692.***” and prayed for return of his vehicle.

3.The lower Court without considering the contention of the petitioner, had mechanically dismissed the petition. Hence, he prayed to set aside the order of the Court below.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner and the defacto complainant/father of the victim girl in Crime No.1043 of 2020 are neighbours. The daughter (victim girl) of the defacto complainant is a college going student. The petitioner was having one side love with her and constantly caused harassment. The petitioner was following the victim and passed lucid comments and also caused embarrassment to her. Initially, the victim girl did not inform her parents, since the petitioner happens to be a neighbour. Unable to bear harassment any further, the victim informed her father, who had lodged a complaint to the respondent Police.

5.He further submitted that the respondent Police has called the petitioner for enquiry. The petitioner came with a group of persons, objected for the complaint to be registered against him and also used abusive words and failed to cooperate with enquiry and investigation. Later, the petitioner

obtained Anticipatory Bail from the learned Principal Sessions Judge, Thiruvallur on 10.06.2020. During investigation, it came to light that the petitioner used his vehicle for commission of offence, hence, the vehicle was seized as a case property. Further, the investigation, in this case, completed, charge sheet filed before the learned Judicial Magistrate No.II, Thiruvallur.

6.Considering the submissions made on either side and the investigation has been completed and charge sheet filed and the vehicle has been kept in open yard and the petitioner being a owner of the vehicle, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Yamaha FZ bearing registration number TN 20 CR 6921 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):-

(i)The petitioner shall execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties each, for a like sum to the satisfaction of the Judicial Magistrate No.II, Thiruvallur. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii) The petitioner shall not alter or alienate the vehicle in question till the completion of Trial.

(iii) 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.

(iv) The petitioner shall submit a photostat copy of R.C.Book before the Judicial Magistrate No.II, Thiruvallur.

(v) The petitioner shall produce the vehicle as and when directed to do so.

7.In view of the above, the order dated 07.11.2020, made in Crl.M.P.No.2806 of 2020, by the Judicial Magistrate No.II, Thiruvallur is, hereby, set aside and the revision is, accordingly, allowed.

11.12.2020

Index: Yes/No
Internet: Yes/No

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To

1.The Judicial Magistrate Court No.II,
Tiruvallur.

2.The Station House Officer,
Mappedu Police Station,
Tiruvallur District.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR., J.

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