



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.06.2020

CORAM :

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.R.C.(MD)No.391 of 2020

Malathi, D/o.Muthaiyan

... Petitioner

Vs.

State through
The Inspector of Police,
Medical College Police Station,
Thanjavur District.

... Respondent

Petition filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order passed by the learned Judicial Magistrate No.II, Thanjavur, in Cr.M.P.No.970 of 2020, dated 10.06.2020, set aside the same and allow this revision petition.

For Petitioner	: Mr.R.Maheswaran
For Respondent	: Mr.R.Anandharaj Additional Public Prosecutor

O R D E R

By consent, the main revision itself is taken up for final disposal.

2.The revision petitioner is the owner of the Honda Activa two wheeler bearing Registration No.TN-49-BJ-2719, which is alleged to have been used by the accused persons in a crime of committing murder.

3.The learned Additional Public Prosecutor appearing for the respondent opposed this petition seeking interim custody of the vehicle on the ground that it is very vital piece of evidence and if the vehicle is returned back to the petitioner, the physical features of the vehicle will be altered and there may be a possibility of alienating the vehicle also, which will lead to destruction of evidence.

4.On perusing the F.I.R. and the submissions made by the learned counsel appearing for the petitioner, this Court finds that the persons involved in the offence of committing murder has taken



the vehicle from the petitioner to reach the place of the deceased. Except this, there is no role for this vehicle and the petitioner claims that she is unaware of the entire incident. Further, the said vehicle was given by her to her sister, who is one of the accused in this case.

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5.Considering the principle laid down by the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai vs. State of Gujarat** reported in **2002 (10) SCC 283**, interim custody of the vehicle is given to the petitioner on the following conditions:-

(i) The petitioner shall produce the original R.C. Book of the vehicle to the learned Judicial Magistrate No.II, Thanjavur and photograph of the vehicle has been taken and kept in the records.

(ii) The petitioner is directed to give an affidavit of undertaking that she will not alienate or alter the physical features of the vehicle till the disposal of the case.

(iii) The petitioner shall produce the vehicle before the Court as and when required.

6.With the above directions, this Criminal Revision Petition is disposed of.

Sd/-

Assistant Registrar ()

// True Copy //

/ /2020

Sub Assistant Registrar(CS)

Note : In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

1.The Judicial Magistrate No.II, Thanjavur.

2.The Inspector of Police,
Medical College Police Station, Thanjavur District.

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

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