

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.04.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.175 of 2021

A.Karthi

...

Petitioner /Petitioner

Vs.

The State,  
Rep. by the Inspector of Police,  
Kondalampatty Police Station,  
Salem City.

...

Respondent/Respondent

PRAYER: Criminal Revision Case filed under 397 r/w 401 of Cr.P.C. to set aside the order dated 11.01.2021 in Crl.M.P.No.10 of 2021, on the file of the Judicial Magistrate No.V, Salem.

For Petitioner : Mr.K.Selvaraj

For Respondent : Mrs.T.P.Savitha  
Government Advocate (Crl.Side)

O R D E R

The present Criminal Revision Case has been filed against the order dated 11.01.2021, passed by the learned Judicial Magistrate No.V, Salem in Crl.M.P.No.10 of 2021, dismissing the petition filed under Section 451 of Cr.P.C, seeking return of the Bajaj Motor Cycle bearing Registration No.TN-30-BQ-5366, to the petitioner.

2. The respondent-Police has seized a Bajaj Motor Cycle bearing Registration No.TN-30-BQ-5366, belonging to the petitioner in connection with the case registered in Crime No.367 of 2020 on its file for offence under Sections 392 and 397 of IPC. Hence, the petitioner has moved Crl.M.P.No.10 of 2021, before the learned Judicial Magistrate-V, Salem, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 11.02.2021. Hence, this revision.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and the respondent-Police falsely implicated his vehicle with regard to Crime

No.367 of 2020 and seized the same. According to the learned counsel, the vehicle was utilized by the petitioner for his own purpose, and the involvement of the petitioner's vehicle with regard to Crime No.367 of 2020, is a false one. However, the learned Judge, erroneously rejected the petition filed under Section 451 of Cr.P.C. It is further submitted that his vehicle has been parked in open place and due to hot sun and heavy rain, it will lost its value and originality and hence, prays to set-aside the order passed by the Court below.

4. The learned Government Advocate (Criminal Side) would submit that the investigation is not completed and the charge sheet yet to be filed. It is further submitted that if the property is returned, the petitioner may not retain it and produce the same during trial, and therefore, the learned Magistrate, on proper appreciation of materials, rightly dismissed the petition, and as such, no interference is required.

5. Heard the learned counsel on either side and perused the materials placed on record.

6. Admittedly, a case was registered by the respondent-Police in Crime No.367 of 2020 on its file for offence under Sections 392 and 397 of IPC and during the pendency of the investigation, the respondent-Police has seized a Bajaj Motor Cycle bearing Registration No.TN-30-BQ-5366. According to the petitioner, the respondent-Police falsely implicated his vehicle. According to the prosecution, the vehicle has been utilized by the accused, who waylaid two persons and committed robbery of gold chain, silver articles and also cash of Rs.2,550/- with knife point.

7. Though the learned counsel for petitioner would submit that the vehicle cannot be kept in open space, if it is kept in open space, and exposed to sun light and rain, it would lose its value, and therefore it has to be returned, however, in the case on hand, as admittedly, the investigation is not yet completed and the charge sheet also yet to be filed and if the vehicle is released, there would be a possibility for changing the engine and chassis number, which would defeat the entire case of the prosecution, and therefore, this Court is not inclined to grant relief to the petitioner. Further, during the investigation, releasing of the vehicle is purely discretionary power of the Court. Unless any arbitrariness or malafides found, the revision Court need not interfere with the order passed by the Court below.

8. In view of the above, this Court is not inclined to exercise discretionary power and there is no illegality or

perversity in the order passed by the learned Judicial Magistrate No.V, Salem. In fine, the Criminal Revision Case is dismissed.

Sd/-

Assistant Registrar (CS-III)

//True Copy//

Sub Assistant Registrar

r n s

To

1.The Chief Judicial Magistrate,  
Salem.

2.The Judicial Magistrate No.V,  
Salem.

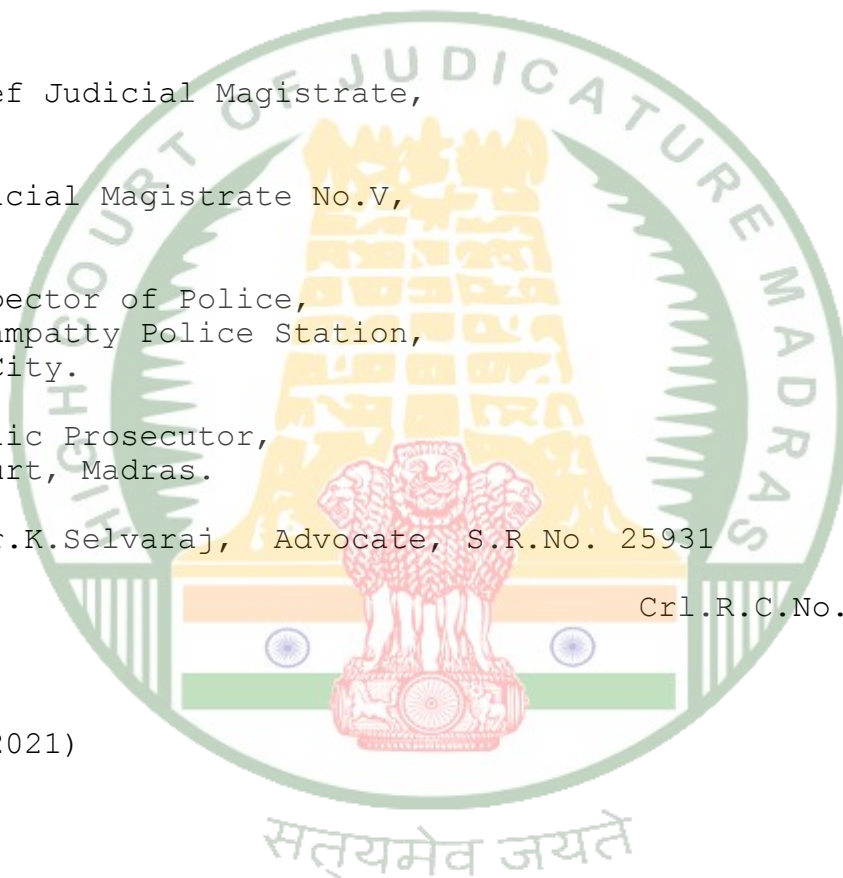
3.The Inspector of Police,  
Kondalampatty Police Station,  
Salem City.

4.The Public Prosecutor,  
High Court, Madras.

+1cc to Mr.K.Selvaraj, Advocate, S.R.No. 25931

Cr1.R.C.No.175 of 2021

PP(CO)  
GN(29/06/2021)



WEB COPY