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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2021

CORAM:

THE HON'BLE MR.JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.499 OF 2021

SRIRANJANI

..Petitioner/Owner of Vehicle

Vs.

State By
Sub-Inspector of Police
Arambakkam Police Station
Thiruvallur District
(Crime No.253 of 2021)

..Respondent/Complainant

Criminal Revision Case filed under Section 397 & 401 of Criminal Procedure Code, seeking to call for the records and to set aside the order passed by the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District made in C.M.P.No.840 of 2021 dated 5.8.2021 and to direct the Learned Judicial Magistrate to return the YAMAHA CYGNUS ALPHA Scooter bearing Registration No.TN18 AT 0734 seized by the respondent police in Crime No.253 of 2021 on the file of the Sub-Inspector of Police, Arambakkam Police Station, Thiruvallur District to the custody of the petitioner herein.

For Petitioner : Mr.S.Sasikumar

For Respondent : Mr.S.Sugendran
Government Advocate(Crl. Side)



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O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 05.08.2021 in C.M.P.No.840 of 2021 passed by the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District and subsequently direct the learned Magistrate to return the vehicle bearing Registration No.TN18 AT 0734 seized by the respondent police in Crime No.253 of 2021, to the custody of the petitioner herein.

2.It is the case of the petitioner that the respondent police registered a case in Crime No.253 of 2021 against one Balaji who is the husband of the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle viz., YAMAHA CYGNUS ALPHA Scooter bearing Registration No.TN18 AT 0734. Therefore, the petitioner who is the owner of the said vehicle filed a petition under Section 451 and 457 Cr.P.C in C.M.P.No.840 of 2021 before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District for return of vehicle and the learned Magistrate by order dated 05.08.2021 dismissed the same. Against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 28.05.2021 at about 10 a.m. when the respondent/police were conducting vehicle check up near Elavoor Bazaar, they intercepted a two wheeler bearing Registration No.TN18 AT 0734 which was driven by one Balaji and on search, they found 26 nos. of 180 Ml Andhra State Brandy Bottles without any valid permit from the Government. Hence the case in Crime No.253 of 2021 was registered and the vehicle was seized.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and she is in no way connected with the alleged offence. He would further submit that the vehicle is in exposure of sun light in a open space and thereby, the condition of the vehicle is getting deteriorated by day by day. He would further submit that the petitioner filed a petition in C.M.P.No.840 of 2021 before the learned District



Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District for return of vehicle and the learned Magistrate without considering the fact, simply dismissed the petition by order dated 05.08.2021. Therefore, the present revision has been filed before this Court seeking interim custody of the said vehicle and that the petitioner is prepared to abide by stringent conditions, if any, to be imposed on her.

5.The learned Government Advocate (CrI.Side) appearing for the respondent would submit that the said vehicle has been used for illegal transportation of 26 nos. of 180 Ml Andhra State Brandy bottles. Further, the confiscation proceedings has been initiated and hence, the vehicle in question cannot be released at this stage.

6.This Court considered the rival submissions and perused the materials available on record.

7.On a perusal of the records, it is seen that the respondent police registered the case in Crime No. 253 of 2021 against one Balaji who is the husband of the petitioner for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle bearing Registration No.TN18 AT 0734 which belongs to the petitioner. Therefore, pending investigation, the petitioner who is the owner of the said vehicle, filed a petition before the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District for return of vehicle and the same has been dismissed.

8.Considering the facts and circumstances of the case and that the vehicle is kept in the open space and exposed to heat, rain and dust, this Court directs the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District to return the vehicle namely YAMAHA CYGNUS ALPHA Scooter bearing Registration No.TN18 AT 0734, to the petitioner, on the following conditions:-

(i)The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove her 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 petitioner with a view to use the vehicle;



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

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(iii)The petitioner is directed to deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), as non-refundable deposit through RTGS/NEFT in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof, the vehicle shall be returned;

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

(v)The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

9.With the above directions, the Criminal Revision Case is allowed by setting aside the order dated 05.08.2021 passed in C.M.P.No.840 of 2021 on the file of the learned District Munsif Cum Judicial Magistrate, Gummidipoondi, Thiruvallur District.

Sd/-
Assistant Registrar(CS-III)

// True Copy //

Sub Assistant Registrar

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1. The District Munsif Cum Judicial Magistrate,
Gummidipoondi, Thiruvallur District.

2. The Sub-Inspector of Police,
Arambakkam Police Station,
Thiruvallur District.

3. The Joint Secretary and Treasurer,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai - 600 009.

4. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.S.Sasikumar, Advocate, S.R.No.42448

Cr1.R.C.No.499 of 2021

SMI(CO)
RLP(17/09/2021)