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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.09.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.580 of 2021

Vasantharaj

...Petitioner/Petitioner/
1st Accused/Owner of the Vehicle

Vs

State represented by
Inspector of Police
Valapady Police Station
Salem District
Crime No.330 of 2021

...Respondent/Respondent/Complainant

Prayer: Criminal Revision Case is filed under Section 397 & 401 of Criminal Procedure Code praying to set aside the order dated 02.09.2021 made in C.M.P.No.684 of 2021 on the file of the District Munsif cum Judicial Magistrate, Valapady by allowing the petition.

For Petitioner : Mr.S.Kousik
for Mr.K.Sathish Kumar

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

O R D E R

(The case has been heard through video conference)

This Criminal Revision Case has been filed against the order dated 02.09.2021 in Crl.M.P.No.684 of 2021 passed by the learned District Munsif Cum Judicial Magistrate, Valapady.

2. It is the case of the petitioner that the respondent police had registered a case against the petitioner and other accused in Crime No.330 of 2021 for the offence under Section 4 (1) (a) of Tamil Nadu Prohibition Act and also seized the vehicle viz., YAMAHA FZ BS IV Motor Cycle bearing Registration



No.TN 54 P 9234. Therefore, the petitioner who is the owner of the said vehicle filed a petition in C.M.P.No.684 of 2021 before the learned District Munsif Cum Judicial Magistrate, Valapady, for return of vehicle and the learned District Munsif cum Judicial Magistrate, by order dated 02.09.2021 dismissed the same. Against which, the present Criminal Revision Case is filed before this Court.

3.The case of the prosecution is that on 06.06.2021 at about 4.30 p.m. the petitioner and one Surya Prakash were proceeding in a two wheeler bearing Reg.No.TN-54-P-9234 and when they were proceeding near Belur Road, Valapady Taluk, the respondent police who were conducting vehicle check up, intercepted the said vehicle and on search, the said Surya Prakash who was travelling with the petitioner as a pillion rider was found in possession of 4 Litres of Panangal in 2 Polythene Packets, each containing 2 litres which was kept in a Gunny bag. On enquiry, it was found that the transporting the same for selling. Hence, the respondent police registered the case and arrested both the accused and also seized the two wheeler. Further, the alleged 4 litters of Panangal was destroyed by the respondent police.

4.The learned counsel for the petitioner would submit that the petitioner is innocent and he has not committed any offence as alleged by the prosecution. He would 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 had filed a petition in C.M.P.No.684 of 2021 before the learned District Munsif Cum Judicial Magistrate, Valapady, for return of vehicle and the learned Magistrate without considering the fact, simply dismissed the petition by order dated 02.09.2021. Therefore, the present revision has been filed before this Court seeking interim custody of the said vehicle, and the petitioner is prepared to abide by any condition to be imposed on him.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the said vehicle has been used for transporting 4 litres of Panangal in 2 Polythene Packets, each containing 2 litres capacity. Hence, he opposed for allowing the petition.

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

7. A perusal of the records shows that the respondent police registered the case in Crime No.330 of 2021 against the petitioner and one Surya Prakash for the offence under Sections 4(1) (a) of Tamil Nadu Prohibition Act and also seized the



vehicle bearing Registration No. TN-54-P-9234 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, Valapady, 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 a open space and exposed to heat, rain and dust, this Court directs the learned District Munsif Cum Judicial Magistrate, Valapady, to return the vehicle namely "Yamaha FZ BS IV Motor Cycle" bearing Reg.No.TN-54-P-9234, 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;

(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 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 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 02.09.2021 passed in



C.M.P.No.684 of 2021 on the file of the learned District Munsif
Cum Judicial Magistrate, Valapady.

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Sd/-
Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

ksa-2/dsn

To

1. The District Munsif Cum Judicial Magistrate,
Valapady
2. The District Collector, Salem
3. The Inspector of Police
Valapady Police Station,
Salem District.
4. The Joint Secretary & Treasure,
Chief Minister's Public Relief Fund,
Finance (CMPRF) Department,
Government of Tamil Nadu,
Secretariat, Chennai 600 009
5. The Public Prosecutor,
High Court, Madras.

+1CC to Mr.K.Sathishkumar, Advocate, Sr.No.49566

Cr1.R.C.No.580 of 2021

PVS (CO)
K.RK. (04.10.2021)