

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.01.2021

C O R A M

THE HONOURABLE MR.JUSTICE P.VELMURUGAN

Crl.R.C.No.1128 of 2020

Surya Gandhi

... Petitioner

Vs.

State rep.by the
Inspector of Police,
S-8, Adambakkam Police Station,
Chennai - 88.
(Crime No.1248 of 2020)

... Respondent

PRAYER: Criminal Revision Petition filed under 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned Judicial Magistrate-II, Alandur, against Crl.M.P.No.966 of 2020 in Crime No.1248 of 2020, dismissing the petition filed by the petitioner, for return of the two wheeler KTM Duke bearing Registration No.TN-22-DR-4646 to the petitioner.

For Petitioner : No appearance

For Respondent : Mr.K.Madhan
Government Advocate (Crl.Side)

O R D E R

The petitioner / owner of the vehicle has preferred this Criminal Revision as against the order dated 20.10.2020 in Crl.M.P.No.966 of 2020 passed by the learned Judicial Magistrate No.II, Alandur, in dismissing the petition filed for return of vehicle under Sections 451 and 457 of the Criminal Procedure Code.

2. The respondent-Police seized the two wheeler KTM Duke bearing registration No.TN 22 DR 4646 for the commission of alleged offence under Section 8(c) and 22(a) of Narcotics Drugs & Psychotropic Substances Act, 1985, on the allegation that the petitioner has used the vehicle for smuggling the drugs. Petitioner moved Crl.M.P.No.966 of 2020 on the file of learned

Judicial Magistrate No.II, Alandur, seeking return of vehicle which came to be dismissed by an order dated 20.10.2020. Aggrieved thereby present revision stands filed.

3. When the matter came up for hearing on 17.12.2020, this Court, directed the learned Government Advocate to file status report on 22.12.2020. Subsequently, on 22.12.2020, at the request of the learned counsel for the petitioner, the matter is adjourned today. Today, when the matter is called, none appeared for the petitioner, to represent her case.

4. The learned Government Advocate (Criminal Side), represented that the investigation is still pending and the vehicle has been utilized for smuggling drugs and therefore, the vehicle was seized. It is further submitted that since the petitioner is the owner of the vehicle, engaged her relative to use the vehicle for illegally transporting the drugs. Therefore, the learned Government Advocate prays that the Court below, on proper appreciation of the materials before it, dismissed the petition and the same called for no interference.

5. Heard the learned Government Advocate (Criminal Side) for the respondent.

6. Admittedly, the case was registered, against one Vignesh, who is none other than the relative of the petitioner herein, in Crime No.1248 of 2020 for illegal transportation of drugs for the offence under Section 8(c) and 22(a) of Narcotics Drugs & Psychotropic Substances Act, 1985. During investigation, two wheeler KTM Duke bearing registration No.TN 22 DR 4646, was seized. Since the investigation is not yet completed and charge sheet is also yet to be filed, and also considering the fact that the vehicle was utilized for the illegal purpose, for the offence under Section 8(c) and 22(a) of Narcotics Drugs & Psychotropic Substances Act, 1985, this Court is not inclined to grant relief to the petitioner. If the case is proved, the vehicle should be confiscated, therefore, during the investigation, releasing of the vehicle is not feasible. Further, during the investigation, releasing of the vehicle is purely discretionary power of the Court.

7. 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 Magistrate, Alandur. In fine, the Criminal Revision Petition is dismissed.

-s/d-
Assistant Registrar

True Copy
Sub-Assistant Registrar

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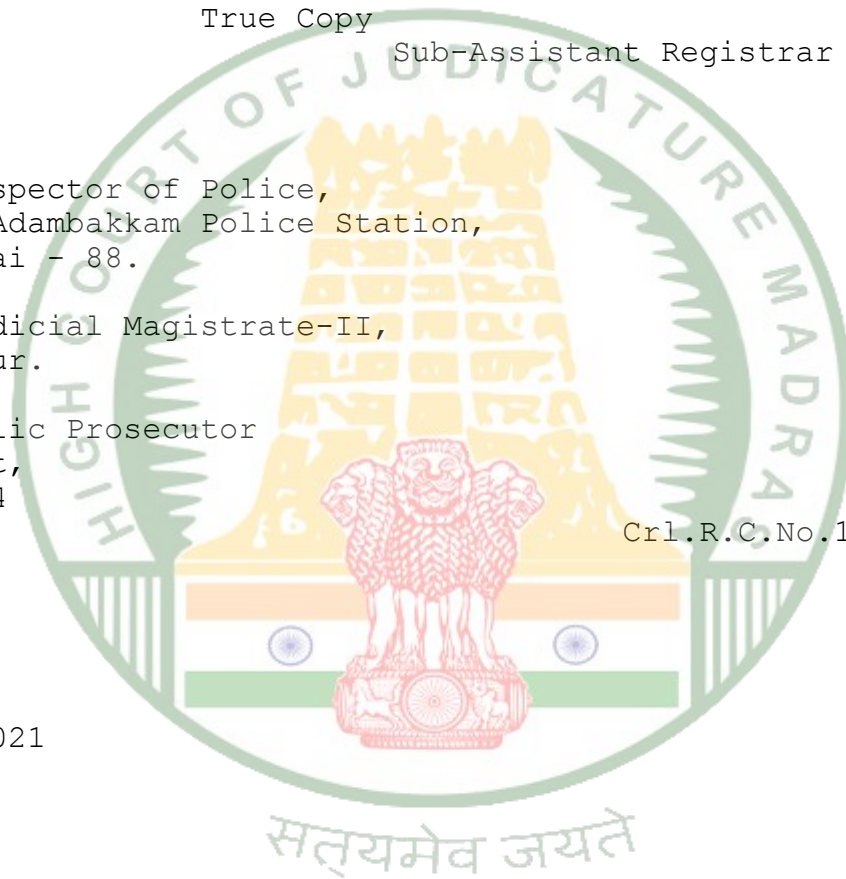
1. The Inspector of Police,
S-8, Adambakkam Police Station,
Chennai - 88.

2. The Judicial Magistrate-II,
Alandur.

3. The Public Prosecutor
High Court,
Madras-104

Crl.R.C.No.1128 of 2020

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