



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.10.2021

CORAM:

THE HON'BLE MR. JUSTICE P.VELMURUGAN

CRIMINAL REVISION CASE NO.621 OF 2021

D.Vijayakumar

...Petitioner

Versus

The State,
Rep.by its, The Inspector of Police,
Vadavalli Police Station,
Coimbatore,
Crime No.104/2019.

...Respondent

Criminal Revision Case filed under Sections 397 and 401 of Criminal Procedure Code to set aside the order dated 30.03.2021 passed in CrI.M.P.No.1131 of 2021 in S.C.No.69 of 2020 on the file of 1st Additional District and Session Judge at Coimbatore and direct the respondent to return the bike bearing registration No.TN 66 Z 5007 to the custody of petitioner.

For Petitioner : Mr.K.Myilsamy

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

O R D E R

This Criminal Revision Case has been filed against the order dated 30.03.2021 passed in CrI.M.P.No.1131 of 2021 in S.C.No.69 of 2020 on the file of the learned 1st Additional District and Session Judge at Coimbatore.

2. The respondent police registered a case in Crime No.104 of 2019 against the petitioner and seized the vehicle bearing Registration No. TN 66 Z 5007. On completion of investigation, the respondent police filed a charge sheet before the learned I Additional District and Sessions Judge, Coimbatore and the same was taken on file in S.C.No.69 of 2020. During the pendency of trial, the petitioner filed a petition under Section 451 Cr.P.C in C.M.P.No.1131 of 2021 seeking interim custody of the said vehicle. After due enquiry, the learned Sessions Judge dismissed the petition on the ground that trial already commenced and it is pending for marking vehicle and hence, the



vehicle could not be released before marking the vehicle. Challenging the said order, the petitioner is before this Court.

3.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. The vehicle in question is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, he seeks interim custody of the vehicle. He would further submit that during the pendency of trial, the vehicle need not be kept either in the police station or before the Court. The learned counsel for the petitioner in support of his contention placed reliance on the decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai -Vs- State of Gujarat* reported in [2003 SCC (Cr1) 1440].

4.The learned Government Advocate (Cr1.Side) would submit that trial commenced and 14 witnesses were already examined and trial would be completed shortly and the vehicle has to be marked through prosecution witnesses. Hence, the vehicle in question cannot be released at this stage.

5.Heard the learned counsel for the petitioner and the learned Government Advocate (Cr1.Side) for the respondent and also perused the materials available on record.

6.Admittedly, the respondent police registered the case in Crime No.104 of 2019 against the petitioner and also seized the vehicle. Subsequently, after investigation respondent police laid a charge sheet and the same was committed to the Sessions Court in S.C.No.69 of 2020 and charges were framed against the accused and trial also commenced; so far, 14 witnesses were examined. However, the prosecution has not marked the vehicle, since trial in progress, at any stage, through prosecution witnesses, the vehicle has to be marked.

7.Under these circumstances, there is no perversity or infirmity in the order passed by the learned Magistrate and the same is liable to be dismissed. Accordingly, the Criminal Revision Case is dismissed.

Sd/-
Assistant Registrar

// True Copy //

Sub Assistant Registrar

ms



To

1.The 1st Additional District and Session Judge,
Coimbatore.

2.The Inspector of Police,
Vadavalli Police Station,
Coimbatore.

3.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.621 of 2021

GPL(CO)
RVM(02/11/2021)