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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 06.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.899 OF 2021

Sridhar

... Petitioner

Vs.

State rep. by  
The Inspector of Police,  
Vazhappadi Police Station,  
Salem District.  
(Crime No.304 of 2021)

... Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 20.09.2021 made in Crl.M.P.No.580 of 2021 on the file of District Munsif cum Judicial Magistrate, (FAC) Vazhappadi, for return of property of the Vehicle viz., YAMAHA FZ MOTOR CYCLE bearing Registration No. TN 77 X 3126 to the petitioner herein.

For Petitioner : Mr.C.Kulanthaivel

For Respondent : Mr.S.Sugendran  
Government Advocate [Crl. Side]

O R D E R

This Criminal Revision Petition has been filed against the dismissal of the petition, seeking for return of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of Yamaha FZ motor cycle bearing Registration No. TN 77 X 3126, Engine No. G3J3E0369416 Chassis No. ME1RG445AJ0043692, Colour - Mat Dark Purplish Bl. The vehicle was seized by the respondent in connection with the case of Crime No.304 of 2021 registered against the petitioner son and his friend for the offence Under Section 4(1) (a) of TNP Act. The learned counsel for the petitioner would submit that the petitioner's son one Suriya had taken the vehicle and given



lift to his friend and that without the knowledge of the petitioner, the vehicle was used for transporting illicit arrack. The said vehicle was seized by the respondent. The learned counsel for the petitioner would submit that the vehicle has been used without the knowledge of the petitioner and the petitioner had filed Crl.M.P.No.580 of 2021 before the District Munsif cum Judicial Magistrate (FAC) Vazhappadi, seeking for return of property and the Trial Court stating that the respondent are likely to conduct the proceeding for confiscation of the vehicle had dismissed the application. He would further submit that the respondent had conducted an enquiry and finding that the petitioner is not involved in the offence and not included him as accused in this case. He would further submit that the vehicle is kept in open space exposed to vagaries of weather and thereby, the value of the vehicle is deteriorating day by day. He would submit that the petitioner is prepared to give an undertaking that the vehicle will not be used for any illegal activities in future and it will be produced before the Trial Court or before the concerned Confiscation Authorities as and when required for the purpose of investigation and thereby he seeks to set aside the order passed by the trial court and would seek for interim custody of the vehicle to the petitioner.

3. Mr.S.Sugendran, Learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner is not an accused and that he is the owner of the vehicle and the vehicle has been used by the petitioner's son for transporting illicit arrack. He would submit that the contraband and the vehicle has been seized and that the respondent are taking steps to initiate confiscation proceedings and that as on today, no notice has been served on the petitioner regarding confiscation.

4. Taking into consideration of the facts and circumstances of the case that the petitioner is not an accused and that notice regarding confiscation has not been served on the petitioner till date. This Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner by imposing conditions.

5. In view of the above, the order dated dated 20.9.2021 made in Crl.M.P.No.580 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the interim custody of the vehicle is directed to be handed over to the petitioner subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, (FAC) Vazhappadi.



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ii) The petitioner shall produce the Original RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court or the Investigating Agency.

iii) The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders from this Court.

The respondent is at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

(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.

Sd/-

Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The District Munsif cum Judicial Magistrate (FAC) Vazhappadi.
2. The Inspector of Police,  
Vazhappadi Police Station,  
Salem District.  
(Crime No.304 of 2021)
3. The Public Prosecutor,  
High Court, Madras.
4. The Record Keeper,  
Criminal Section,  
High Court, Madras.

+1cc to Mr.C.Kulanthaivel, Advocate, S.R.No.64071

Cr1.R.C.No.899 of 2021

PM(CO)

RLP(13/12/2021)