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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.11.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.839 of 2021

K.Selvam

... Petitioner

Vs.

The State Rep by its  
The Inspector of Police,  
Vazhapadi Police Station,  
Vazhapadi, Salem District.  
(Crime No.321 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 passed in Crl.M.P. No.1142 of 2021 dated 01.11.2021 on the file of District Munsif cum Judicial Magistrate Vazhapadi (FAC) and return the vehicle "Yamaha FZS Engine No.G3N3E0084537, Chassis No.ME1RG661CL0083011 to the petitioner.

For Petitioner : Mr. S.Varanesh

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 in Crl.M.P. No. 1142 of 2021 dated 01.11.2021 on the file of District Munsif cum Judicial Magistrate Vazhapadi (FAC).

2. Learned counsel for the petitioner would submit that the petitioner is the owner of the Yamaha FZS Motorcycle bearing Registration No.TN-77-P-5896. The said vehicle was seized in connection with the case in Crime No.321 of 2021 registered by the respondent on 06.06.2021 for the offences punishable under Sections 4(1)(a) of TNP Act and the petitioner's brother and another accused were arrested in this case for having



transported illicit liquor. Learned counsel for the petitioner would submit that the show cause notice was not served to the petitioner. He would further submit that the petitioner is facing difficult, without his vehicle and unable to use it for day to day work. He would further submit that the petitioner would give undertaking that the alleged vehicle will not be used for any other illegal activities in future.

3. Learned counsel for the petitioner would further submit that the vehicle, which has been seized by the respondent in this case, has been parked in the open exposed to vagaries of weather and thereby the value of the vehicle is deteriorating day by day. He would submit that the petitioner had filed a petition seeking for return of property in CrI.M.P. No.1142 of 2021 dated 01.11.2021 on the file of District Munsif cum Judicial Magistrate Vazhapadi (FAC) seeking for return of property. The Learned Judge had dismissed the petition stating that the confiscation proceedings are pending.

4. Learned Counsel for the petitioner would further reiterate that the petitioner is not an accused in this case and the vehicle had been used by the petitioner's brother without the knowledge of the petitioner and thereby, filed this revision seeking to set aside the order passed by District Munsif cum Judicial Magistrate Vazhapadi (FAC).

5. Mr.S.Sugendran, Learned Government Advocate(CrI.Side) appearing for the respondent would submit that the vehicle of the petitioner has been seized on 06.06.2021 in connection with Crime No.321 of 2021 for transport of illicit liquor. He would further submit that the petitioner has not been issued with show cause notice and that the proceeding is pending.

6. Taking into consideration the fact that the petitioner is not an accused, this Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner.

7. In view of the above, the order dated 01.11.2021 passed in CrI.M.P. No.1142 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:

a) The petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees Twenty Thousand only) with two sureties each for a like sum to the satisfaction of the District Munsif cum Judicial Magistrate Vazhapadi (FAC).

b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and



file an affidavit of undertaking that he will not dispose or alter 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.

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

It is made clear that this order will not prevent the respondent from proceeding with the confiscation proceedings against the petitioner in accordance with law.

Sd/-  
Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. District Munsif cum Judicial Magistrate  
Vazhapadi (FAC).
2. The Inspector of Police,  
Vazhapadi Police Station,  
Vazhapadi, Salem District.  
(Crime No.321 of 2021)

+1cc to Mr.S.Varanesh, Advocate, S.R.No.62168

Cr1.R.C.No.839of 2021

PL(CO)  
SU(09/12/2021)