



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 08.12.2021

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.892 OF 2021

Ajithkumar

... Petitioner/Petitioner/
Owner of the Property

Vs.

State rep. by
The Inspector of Police,
Uthukottai Police Station,
Thiruvallur District.
(Crime No.320 of 2021)

... Respondent/Respondent/
Complainant

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 17.09.2021 made in Crl.M.P.No.2013 of 2021 passed by the learned District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District, dismissing the petition to return the vehicle of Two Wheeler Honda (Dio) bearing Registration No.TN-85-L-2201 to the petitioner herein.

For Petitioner : Mr.R.Sasikumar

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 interim custody of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of Honda (Dio) motor cycle bearing Registration No.TN-85-L-2201. The learned counsel for the petitioner would submit that the petitioner's friend one Vasanthakumar had borrowed the vehicle for attending a marriage



function and that without the knowledge of the petitioner, the vehicle was used for illicit transport of 118 bottles of liquor (Andhra Pradesh) and that the accused was arrested and the vehicle was seized by the respondent in connection with the case of Crime No.320 of 2021 for the offence Under Section 4(1) (a) of TNP Act. The learned counsel for the petitioner would further submit that the petitioner had filed Crl.M.P.No.2013 of 2021 before the District Munsif cum Judicial Magistrate, Uthukottai, seeking for interim custody of the vehicle 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 petitioner is not an accused in this case and till date show cause notice has not been served on him. 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 diminishing 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 Confiscation Authorities concerned 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 friend for illicit transport of liquor. He would submit that the vehicle has been seized and that the respondent are taking steps to initiate confiscation proceedings and that as on today, no show cause notice has been served on the petitioner regarding confiscation.

4. Heard the learned counsel on either side and perused the materials available on record.

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

6. In view of the above, the order dated dated 17.09.2021 made in Crl.M.P.No.2013 of 2021 passed by the learned District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District, stands set aside and the Criminal Revision Case 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.25,000/- with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Uthukottai, Thiruvallur District,.

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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.

iv) 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(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Uthukottai,
Thiruvallur District.
2. The Chief Judicial Magistrate, Thiruvallur.
3. The Inspector of Police,
Uthukottai Police Station,
Thiruvallur District.



4. The Public Prosecutor,
High Court, Madras.

Copy To

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The Section Officer,
Criminal Section,
High Court, Madras.

+1cc to M/s.R.Sasikumar, Advocate, S.R.No.65065

Crl.R.C.No.892 of 2021

SR-II (CO)
RLP (13/12/2021)