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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.12.2021

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.954 of 2021

Saranya

...Appellant/Petitioner

Vs.

State represented by
The Inspector of Police,
C-1, Uthukottai Police Station,
Tiruvallur District.

...Respondent/Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to call for the records pertaining to the order passed by the learned District Munsif cum Judicial Magistrate, Uthukottai, made in Crl.M.P.No.2593 of 2021 dated 16.11.2021 and set aside the same by allowing the Revision Petition.

For Petitioner : Mr.Prabakaran
for M/s.V.Gopalsamy

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 an interim custody/return of property.

2. Learned counsel for the petitioner would submit that the petitioner is a lady and she is the owner of the two wheeler viz. Honda Dio bearing Registration No. TN-05-BE-8097, Chasis No.ME4JF399EGU003553 and Engine No.JF39EU1004203 and she has been using the vehicle to take her children to school, however, on 01.06.2021, without her knowledge, the vehicle has been taken by her brother Dinesh and his friend Vignesh and later she came to know that they were arrested and the vehicle was also seized for illegal transport of 94 bottles of illicit liquor for which the case was registered by the respondent in Crime No.296 of 2021, for the offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act, 1937.



3. He would further submit that the petitioner is put to severe hardship without the two wheeler for her domestic use, therefore, she had filed the petition in Cr.M.P.No.2593 of 2021 before the District Munsif cum Judicial Magistrate, Uthukottai, seeking a direction to return the vehicle, however, the learned Magistrate, by order dated 16.11.2021, stating that the confiscation proceedings have been initiated by the respondent, 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 had not included her as accused in this case.

4. 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 also submit that the petitioner is prepared to give an undertaking that the vehicle will not be used for any illegal activities in future and she will not dispose it, pending disposal of the case 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.

5. Mr.Sugendran, learned Government Advocate (Crl.Side) would submit that the petitioner is the owner of the vehicle and she had lent the vehicle to her brother one Dinesh. He along with his friend had used the vehicle for illegal transport of liquor and the vehicle was seized on 01.06.2021, in connection with Crime No.296 of 2021, registered by the respondent for the offence under Section 4(1)(a) TNP Act. He would further submit that the petitioner is not an accused and confiscation proceedings have been initiated and notice has not been served on the petitioner.

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

7. In view of the above, the order dated dated 16.11.2021 made in Crl.M.P.No.2593 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, Uthukottai.



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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 she will not dispose or alter the physical features of the vehicle and that she 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.

8. Accordingly, this Criminal Revision Case is allowed.

Sd/-

Assistant Registrar (CS-IV)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate,
Uthukottai.

2. The Inspector of Police,
C-1, Uthukottai Police Station,
Tiruvallur District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.V.Gopalsamy, Advocate SR. No.68261

Cr1.R.C.No.954 of 2021