



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.937 OF 2021

Chithravalli

... Petitioner

.Vs.

Sub Inspector of Police,
Vettaikaraniruppu Police Station,
Nagapattinam District.
(Crime No.119 of 2021)

... Respondent

PRAYER:

The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to call for the records and set aside the order dated 30.03.2021 passed by the learned District Munsif cum Judicial Magistrate in Crl.M.P.No.624 of 2021 in Crime No.119 of 2021 and to return the two wheeler viz. Honda Activa 5GDX bearing Registration No. TN-51-AK-8682, Chasis No.ME4JF50BGJ7072711 and Engine No.JF50E78072740 to the custody of the petitioner.

For Petitioner : Mr.N.Palanivel

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 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 Activa 5GDX bearing Registration No. TN-51-AK-8682, Chasis No.ME4JF50BGJ7072711 and Engine No.JF50E78072740. He would further submit that on 10.1.2021, the vehicle has been taken by her husband and he had not returned to home and later, she came to know that the vehicle was seized in connection with



the case in Crime No.119 of 2021, registered by the respondent for the offence under Section 4(1)(aaa)(1-A)TNP Act and her husband was implicated as accused in that case.

3. The learned counsel for the petitioner would further submit that the petitioner is employed as sales woman in a textile shop and the vehicle was purchased by her out of the subsidy provided by the Tamil Nadu Government and she used it to go to shop, where she is working. Since the petitioner is put to suffer hardship, she had filed the petition in Cr.M.P.No.624 of 2021 before the District Munsif cum Judicial Magistrate, seeking a direction to return the vehicle, however, the learned Magistrate, by order dated 30.03.2021, had dismissed the petition stating that the vehicle is liable for confiscation. He further submitted that the petitioner is not the accused in this case and till date, she had not been served with any summons from the appropriate authority.

4. He would further submit that the vehicle is parked in open space exposed to vagaries of weather and thereby, the value of the vehicle is diminishing day by day. 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 for setting aside of the order passed by the Trial Court and for interim custody of the vehicle to the petitioner.

5. Mr.Sugendran, learned Government Advocate (Crl.Side) would submit that the vehicle was used by one Balamurugan, husband of the petitioner for transport of illicit arrack and the vehicle was seized on 10.01.2021, in connection with Crime No.119 registered by the respondent for the offence under Section 4(1)(aaa)(1-A)TNP Act. He would further submit that the petitioner is not an accused and that till date, confiscation proceedings have not been initiated and the respondent has given a letter of requisition to the confiscation authority and no notice has been served on the petitioner till date.

6. 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 certain conditions.

7. In view of the above, the order dated dated 30.03.2021 made in Crl.M.P.No.624 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:

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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, Vedaranyam.

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.

Sd/-

Assistant Registrar(CS III)

//True Copy//

Sub Assistant Registrar

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To

1. The District Munsif cum Judicial Magistrate, Vedaranyam.
2. The Sub Inspector of Police, Vettaikaraniruppu Police Station, Nagapattinam District.
3. The Public Prosecutor, High Court, Madras.



4. The Record Keeper,
High Court, Madras.

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+1cc to Mr.N.Palanivel, Advocate, S.R.No.66959

Cr1.R.C.No.937 of 2021

RSV (CO)
PM/30/12/2021