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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.983 of 2021

Malar

... Petitioner/3rd Person

Vs.

State rep. by
The Inspector of Police,
Sholavaram Police Station,
Thiruvallur District.
(Crime No.983 of 2021)

... Respondent/Respondent

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 04.08.2021 made in Crl.M.P.No.3493 of 2021 on the file of Judicial Magistrate No.II, at Ponneri and to allow the Criminal Revision Petition.

For Petitioner : Mr.R.Parthiban

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 TVS JUPITER , bearing Registration No. TN 13 L 4102. The vehicle was seized by the respondent in connection with the case of Crime No.983 of 2021 for the offence under Section 4(1) (a) of TNP Act. The learned counsel for the petitioner would submit that a neighbour of the petitioner had borrowed the vehicle for purchasing medicine and the petitioner had innocently given the vehicle to him, whereas, without the knowledge of the petitioner, he had used it for the offence and the vehicle is now parked in open space exposed to vagaries of weather and thereby, the value of the vehicle is diminishing day by day. He would further submit that the petitioner uses the vehicle for attending her work and that since it is detained by



the police, she finds it very difficult and thereby, the petitioner had filed CrI.M.P.No.3463 of 2021 before the Judicial Magistrate No.II, Ponneri, seeking for return of property, however, the Trial Court, holding that the respondent is likely to conduct the proceeding for confiscation of the vehicle, had dismissed the application. 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(CrI.Side) appearing for the respondent would submit that the petitioner is not an accused and that she is the owner of the vehicle and the vehicle has been seized for transporting 18 bottles of 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 04.08.2021 made in CrI.M.P.No.3463 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 Judicial Magistrate No.II, Ponneri.

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 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 VII)

//True Copy//

Sub Assistant Registrar

To

1. Judicial Magistrate No.II,
Ponneri.
2. The Inspector of Police,
Sholavaram Police Station,
Thiruvallur District.
(Crime No.983 of 2021).
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Parthiban, Advocate, S.R.No.68035

Cr1.R.C.No.983 of 2021

AK-II(CO)
CT 06/01/2022