



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 02.08.2021
CORAM

THE HONOURABLE MRS. JUSTICE **T.KRISHNAVALLI**

Crl.R.C(MD)No.495 of 2021

Sureshkumar

... Petitioner/Owner of the
Vehicle 3rd party

Vs.

The State Rep. by
The Sub Inspector of Police,
Kallikudi Police Station,
Madurai District.
(Cr.No.113 of 2021)

...Respondent / Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to allow this Criminal Revision Petition by setting aside the order passed in Cr.M.P.No.2735 of 2021 by the Judicial Magistrate, Thirumangalam, dated 13.07.2021.

For Petitioner : Mr.S.Sivaprakash

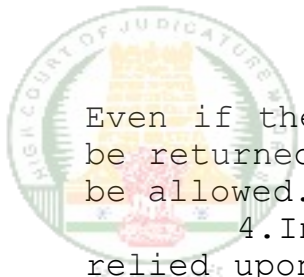
For Respondent : Mr.RMS.Sethuraman,
Counsel for State Government (Crl.side)

O R D E R

This Criminal Revision Case is filed to set aside the order passed by the learned Judicial Magistrate, Thirumangalam in Cr.M.P.No.2735 of 2021, dated 13.07.2021.

2.A vehicle viz., Hero Splendor Plus bearing Registration No.TN-58-BY-1305 was seized by the respondent police in Crime No.113 of 2021, under Sections 4(1)(a) of TN Prohibition Act. Seeking return of the said vehicle, the petitioner has approached the learned Judicial Magistrate Thirumangalam, by way of filing a petition in Cr.M.P.No.2735 of 2021, for interim custody. The learned judge, by order dated 13.07.2021 has dismissed the same. Challenging the said order, the petitioner is before this Court with this petition.

3.On the side of the revision petitioner, it is stated that the petitioner is not an accused in the case, but he is a 3rd party/owner of the vehicle. The petition was dismissed by the trial Court only on the ground that confiscation proceeding was initiated.



Even if the confiscation proceedings are initiated, the vehicle can be returned to the owner of the property and prayed the petition to be allowed.

4. In this regard, the learned counsel for the petitioner relied upon the judgment of this Court passed in Crl.R.C.(MD)No.643 of 2019, dated 23.07.2019. He further relied upon another judgment of this Court passed in Crl.R.C.No.1099 of 2019, dated 04.11.2019, this court has observed in paragraph Nos. 6 and 7 as follows:

'6. Admittedly, the petitioner is the owner of the property. The petitioner is not an accused in the case.

7. Upon considering either side submissions, this Court is of the opinion that pendency of the confiscation proceedings is not a bar for return of vehicle and therefore, the Revision Petition is allowed, on the following conditions:....'

5. On the side of the respondent, it is stated that confiscation proceeding was already initiated. If the vehicle is returned to the petitioner, the vehicle is being used for similar offence and prayed the petition to be dismissed.

6. It is seen that the vehicle was seized by the respondent police on 01.05.2021 and the vehicle is in the custody of the police for the past three months. Keeping the vehicle idle for three months, will make the vehicle useless. Hence, this Court is inclined to allow the petition with certain conditions.

7 Accordingly, this Criminal Revision Case is allowed and the order dated 13.07.2021 in Crl.M.P.No.2735 of 2021, on the file of the learned Judicial Magistrate, Thirumangalam, is hereby set aside and the vehicle / two wheeler is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(a) The petitioner shall deposit the original Registration Certificate of the vehicle;

(b) The petitioner shall deposit a sum of Rs.15,000/- (Rupees Fifteen thousand only) to the credit of Cr.No.113 of 2021 on the file of the learned Judicial Magistrate, Thirumangalam, within a period of two weeks from the date of receipt of a copy of this order;

(c) The petitioner shall not make any alteration of the vehicle; and



(d)The petitioner shall produce the same before the Court as and when required.

Sd/-

Assistant Registrar (W)

WEB COPY

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

vsd

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judicial Magistrate,
Thirumangalam.
- 2.The Sub Inspector of Police,
Kallikudi Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Crl.R.C (MD) No.495 of 2021
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RD(6.09.2021) 3P 4C