



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.10.2021

CORAM:

THE HON'BLE MR.JUSTICE B.PUGALENDHI

CRL.R.C. (MD).No.711 of 2021

Mohammed Riyas

... Petitioner

Vs.

The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.
Crime No.309 of 2020

... Respondent

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C, to call for the records pertaining to the order passed in Cr.M.P.No.1046 of 2021 dated 01.04.2021 on the file of the learned District Munsif cum Judicial Magistrate, Rameshwaram, Ramanathapuram District and set aside the same.

For Petitioner : Mr.D.Ramesh Kumar
for Mr.T.Veerakumar
For Respondents : Mr.M.Muthumanikkam
Government Advocate

O R D E R

This Criminal Revision Case has been filed to call for the records pertaining to the order passed in Cr.M.P.No.1046 of 2021 dated 01.04.2021 on the file of the learned District Munsif cum Judicial Magistrate, Rameshwaram, Ramanathapuram District and set aside the same.

2.On 12.09.2020, as per the secret information, the respondent/Police Team was on patrol near Vedhalai Kadarkarai. At that time, the accused namely Mohammed Riyas, came there in a Honda Bike bearing Reg.No.TN-65-T-6279 and during check-up, in the said vehicle, it was found that the accused had illegally transported Turmeric. Thereafter, the respondent arrested the accused, recorded his confession and seized the Turmeric along with two wheeler. A case was registered in Crime No.309 of 2020, under Section 12(1)(a) of Passport Act, against the accused.

3.During the course of investigation, the petitioner, who is the owner of the seized Honda Bike bearing Reg.No.TN-65-T-6279 filed a Petition before the District Munsif cum Judicial Magistrate, Rameshwaram, Ramanathapuram District, in Cr.M.P.No.1046 of 2021 for return of the vehicle. The said petition was dismissed on 01.04.2021 on the ground that if the property is handed over to the petitioner, there will be a chance of selling the same to another person and the



investigation will be obstructed. As against which, the present Criminal Revision Petition is filed.

4.The learned counsel for the petitioner would submit that the petitioner is the owner of the offending vehicle. Further, he has not committed any offence and a false case has been registered against him under Section 12(1)(a) of Passport Act. He would further submit that pending the proceedings, the Vehicle may be returned, otherwise the value of the vehicle would get diminished and the utility value will get affected. He would further submit that he will not alter or change the vehicle and he will produce the vehicle as and when required by the Investigating Agency or by the Trial Court.

5.The learned Government Advocate appearing for the respondent Police has stated that the offending vehicle was seized from the petitioner and the case was registered in Crime No.309 of 2020 for the offence, under the Prohibition Act. He further stated that the confiscation proceedings are still pending.

6.Admittedly, the petitioner is the owner of the property and he has been arrayed as accused in this case. No doubt, exposing the vehicle to sun and rain, without using it, would certainly lose its value. This Court is also of the opinion that pendency of the confiscation proceedings is not a bar for return of vehicle. Therefore, the Revision Petition is allowed subject to the following conditions;

(1)the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties to the satisfaction of the learned District Munsif cum Judicial Magistrate, Rameshwaram, Ramanathapuram District.

2)The Original R.C. Book shall be produced before the Trial Court.

3)The petitioner shall file an affidavit of undertaking that he will produce the vehicle before the Court or before the investigating Authorities whenever the same is required.

4)The petitioner shall not dispose of the vehicle.

5)The petitioner shall make himself available before the Authority in the confiscation proceedings and investigation.

8.With the above conditions, the Criminal Revision Petition stands allowed.

Sd/-

Assistant Registrar (A.D II)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)



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 learned District Munsif cum Judicial Magistrate,
Rameshwaram,
Ramanathapuram District

2.The Inspector of Police,
Mandapam Police Station,
Ramanathapuram District.

+1 CC to M/s.R.VEERA KUMAR, Advocate (SR-31146[F] dated
05/10/2021)

Order made in
CRL.R.C.(MD).No.711 of 2021
04.10.2021

PK(CO)/RS (21.10.2021) 3P 4C