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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.01.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.29 of 2022

Aslam

... Petitioner

Vs.

The State by  
Inspector of Police,  
Shozhavaram Police Station,  
Chennai.

(Crime No.674 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 of the learned Judicial Magistrate No.II, Ponneri made in C.M.P.No.4883 of 2021 dated 08.10.2021 and set aside the order passed in dismissing the petition filed by the petitioner under Sec.451 and 457 of Cr.P.C for return of his Auto Rickshaw bearing Regn. TN-03-V-2808.

For Petitioner : Mr.T.R.Ravi

For Respondent : Mr.S.Sugendran  
Government Advocate [Crl. Side]

ORDER

(The case has been heard through Video Conferencing)

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 Auto Rickshaw (three wheeler) bearing Registration No.TN-03-V-2808. The vehicle was seized by the respondent/police in connection with a case in Crime no.674 of 2021 registered by the respondent on 26.05.2021 for the offence under Sections 4(1)(a) & 4(1-A) TNP Act for transporting 320 quarter bottles of illicit liquor. Learned counsel would further submit that the petitioner is not an accused in this case and the vehicle was used without the knowledge of the petitioner. Learned counsel for the petitioner would submit that the vehicle



is parked in the open area exposed to vagaries of weather and thereby the value of the vehicle is diminishing day by day. He would also submit that the petitioner had filed Crl.M.P.No.4883 of 2021 before the Judicial Magistrate No.II, Ponneri seeking for return of property whereas the trial court holding that the vehicle is likely to be confiscated, had dismissed the petition. He would further submit that till date, no summons or show cause notice is served on the petitioner for confiscation. He would further submit that the petitioner undertakes that he will not dispose the vehicle and that the petitioner is prepared to produce the vehicle before the authorities or before the Court as and when required by them and thereby would seek to set aside the impugned order and direct the release of the vehicle.

3. Mr.S.Sugendran, learned Government Advocate(Crl.Side) appearing for the respondent would submit that the petitioner is the owner of the Auto Rickshaw, the vehicle had been used by his driver one Ajith Kumar for illicit transport of IMFL bottles. He would further submit that the respondents are taking steps for initiating proceedings for confiscation and till date, show cause notice has not been served on the petitioner.

4. Heard the learned counsels and perused the materials available on record.

5. Taking into consideration of the facts that the petitioner is not an accused in this case and that till date, no show cause notice has been issued on the petitioner, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

6. In view of the above, the order dated 08.10.2021 in Crl.M.P.No.4883 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:

a) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.II, Ponneri, within 15 days from the date of commencement of the court's normal functioning, failing which this order shall stand dismissed automatically.

b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and that he will



produce the vehicle before the trial Court as when required by the trial Court or the Investigating Agency.

c) The RC book of the vehicle shall be retained by the trial Court till the disposal of the trial or until further orders.

7. The concerned authority shall 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.

Sd/-  
Assistant Registrar(CS-IX)

//True Copy//

Sub Assistant Registrar

shk

To

1. Judicial Magistrate No.II,  
Ponneri.
2. Do Through The Chief Judicial Magistrate,  
Thiruvallur.
3. The Inspector of Police,  
Shozhavaram Police Station,  
Chennai.  
(Crime No.674 of 2021)
- 4.The Public Prosecutor,  
Madras High Court.

Cr1.R.C.No.29 of 2022

MT(CO)  
SB(10/02/2022)