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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.04.2022

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

CRL.RC.NO.462 OF 2022

P.Prathab Kumar

... Petitioner

Vs.

1. The State Rep. by
Sub Inspector of Police,
Valappadi Police Station,
Crime No.300 of 2021

2. Venkatesan alias Narayanasamy

3. Boopathi

... Respondents

PRAYER: Criminal Revision Case filed under Sections 397 & 401 of Cr.P.C. to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Valappadi, Salem District in Crl.MP.No.1089 of 2021 dated 08.10.2021 dismissing the petition to return the vehicle of Yamaha FZ bearing Registration No.TN 54 M 7778 to the petitioner.

For Petitioner : Mr.B.Sundarapandiyan

For Respondents

For R1

: Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

The present criminal revision has been filed praying to set aside the dismissal order passed in Crl.MP.No.1089 of 2021 dated 08.10.2021 passed by the learned District Munsif cum Judicial Magistrate, Valappadi, Salem District and to direct the learned Judicial Magistrate to return the vehicle bearing Registration No.TN 54 M 7778 Yamaha FZ, which was recovered in connection with Cr.No.300 of 2021 under Section 4(1)(a) of TN Prohibition



Act on the file of the Inspector of Police, Valappadi Police Station to the petitioner for interim custody.

2. The case of the petitioner is that he is the owner of the vehicle i.e. two wheeler bearing registration No. TN 54 M 7778 Yamaha FZ. During the relevant point of time, the neighbour of the petitioner, Venkatesan and Boopathi requested the petitioner to give the petition mentioned two wheeler for some personal reasons. Believing the words of those persons, the petitioner handed over the vehicle to them and later without the knowledge of the petitioner, they attempted to transport the 10 litres of illegal liquor, which is punishable under Section 4(1)(a) of TN Prohibition Act. Only after registering the case, the petitioner came to know that the vehicle belongs to him was recovered by the police and as of now, the same is in the custody of the police. In this regard, the petitioner filed petition before the learned Judicial Magistrate, Valappadi praying to return the vehicle for interim custody. But by stating the reason that already confiscation proceedings are initiated, the learned Judicial Magistrate, Valappadi refused to give the vehicle for interim custody and so, the petitioner is before this Court with this criminal revision petition.

3. Today when the petition is came up for hearing, the learned counsel appearing for the petitioner would submit that there is no confiscation proceedings was initiated by the authorised officer, but in the impugned order, by believing the false representation made by the learned Public Prosecutor, the learned Judicial Magistrate declined to allow the petition filed by the petitioner under Section 451 of Cr.P.C. According to him, the said impugned order is liable to be dismissed.

4. In this regard, the learned Government Advocate(crl.side) appearing for the respondent police fairly admits that as of now, no show cause notice has been issued to the petitioner for initiating confiscation proceedings.

5. Now on considering the said submissions with the relevant records, no doubt the petition mentioned case has been registered on 01.06.2021. Thereafter for the past ten months, nothing has been proceeded for confiscation of petition mentioned vehicle. In the said circumstances, being the reason that the above recovered petition mentioned vehicle is a two wheeler, if the same is kept in the police station, the value of the vehicle would drastically diminish and that the same would only cause huge monetary loss to the petitioner, further the petitioner is not an accused in the petition mentioned case. Therefore, whether the alleged offence had happened with the knowledge of the petitioner or not is a matter for trial. Hence



in view of the same, this Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner subject to imposition of conditions.

6. Accordingly, the Criminal Revision is allowed and the impugned order, dismissing the petition for return of vehicle in CrI.MP.No.1089 of 2021 dated 08.10.2021 passed by the learned District Munsif cum Judicial Magistrate, Valappadi, Salem District, is hereby set aside and that the interim custody of the vehicle in question, Yamaha FZ bearing Registration No.TN 54 M 7778 shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.25,000/- with two sureties for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Valappadi, Salem District.

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the learned District Munsif cum Judicial Magistrate, Valappadi, Salem District and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the said 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.

The respondent is at liberty to proceed 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

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To

1. The District Munsif cum Judicial Magistrate,
Valappadi, Salem District.



2. The Sub Inspector of Police,
Valappadi Police Station

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.B.Sundarapandiyan, Advocate, S.R.No.27371

Cr1.RC.No.462 of 2022

MT (CO)
RLP (06/05/2022)