



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.495 of 2022

K.Seenivasan

... petitioner/
Owner of the Vehicle

vs.

State by,
The Inspector of Police,
Gobichettipalayam Police Station,
Erode District
(Cr.No.512 of 2021)

... Respondent/Complainant

PRAYER: Criminal Revision filed under Section 397 r/w 401 of Cr.P.C. to set aside the order dated 07.03.2022 made in CMP.No.176 of 2022 on the file of the learned Judicial Magistrate No.1, Gobichettipalayam in crime No.512 of 2021 on the file of the respondent police dated 21.10.2021 and further to direct the respondent police to return the petitioner's vehicle i.e. Pulsar 150 DTSI Motorcycle bearing Registration No.TN 36 AW 2941 to the petitioner for interim custody.

For petitioner : Mr.R.Kalyanasundaram

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

The present criminal revision has been filed praying to set aside the order dated 07.03.2022 made in CMP.No.176 of 2022 on the file of the learned Judicial Magistrate No.1, Gobichettipalayam in crime No.512 of 2021 on the file of the respondent police dated 21.10.2021 and further to direct the respondent police to return the petitioner's vehicle i.e. Pulsar 150 DTSI Motorcycle bearing Registration No.TN 36 AW 2941 to the petitioner for interim custody.

2. The case of the petitioner is that the petitioner is the owner of the vehicle. In connection with crime No.512 of 2021, the respondent police recovered the petitioner's two wheeler bearing registration No.TN 36 AW 2941, Pulsar 150 DTSI and after made recovery, the same has been under the custody of the police for safe custody. However, the said vehicle is exposed to all weather and thereby, the value of the vehicle is



being drastically diminished that would only cause huge monetary loss to the petitioner. Accordingly in view of the above, the petitioner filed a petition under Section 451 of Cr.P.C. before the learned Judicial Magistrate-I, Gobichettipalayam for return of the said vehicle. But the learned Judicial Magistrate, without considering the fact that if the property is parked in a single place, the value of the same is being drastically diminished, dismissed the petition. Hence, the petitioner is before this Court.

3. Per contra, the learned Government Advocate (crl.side) appearing for the respondent police would submit that the petitioner is an accused in the petition mentioned case. Further, the vehicle was used for committing the alleged offence and therefore, the petition mentioned vehicle has necessarily to be marked as material object before the trial court at the time of trial. Being the reason that the petitioner is an accused, if the property is returned to him for interim custody, he may try to alter the vehicle and also he may attempt to hide the vehicle.

4. Now on considering the said submissions with the relevant records, the averment found in the first information report shows that during the relevant point of time, the petitioner by using the vehicle, attempted to commit theft in the defacto complainant's house. Further, during the relevant point of time, the defacto complainant and others red handedly secured the accused and produced before the police and after lodging the complaint, the case has been registered against the petitioner. Then only, during the time of investigation, the petition mentioned vehicle has been recovered by the respondent police. In this respect, though the petition mentioned vehicle has been used for transporting the stolen property, being the reason that the petition mentioned case has been registered against the petitioner for the offence punishable under Sections 457 and 380 of IPC, it cannot be said that the petition mentioned vehicle is a material object, which is relevant to show the guilt of the accused.

5. Therefore, considering the facts and circumstances of the case, I am of the considered opinion that the petitioner is entitled to receive the vehicle for interim custody subject to certain conditions.

6. Accordingly, this Criminal Revision is allowed and the impugned order dismissing the petition for return of vehicle in CMP.No.176 of 2022 dated 07.03.2022 passed by the learned Judicial Magistrate No.1, Gobichettipalayam, is hereby set aside and that the interim custody of the vehicle in question, two wheeler bearing registration No.TN 36 AW 2941, Pulser 150 DTSI



shall be handed over to the petitioner, subject to the following conditions:

i) The petitioner shall execute a bond for a sum of Rs.50,000/- with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate No.1, Gobichettipalayam

(ii) The petitioner is directed to produce the RC book of the vehicle in question stands in his name before the learned Judicial Magistrate No.1, Gobichettipalayam 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.

(iv) The petitioner shall produce the vehicle in question before the learned Judicial Magistrate No.1, Gobichettipalayam once in a month i.e. first working day of every month.

Sd/-

Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

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To

1. The learned Judicial Magistrate No.1,
Gobichettipalayam
2. The Inspector of Police,
Gobichettipalayam Police Station,
Erode District
3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Kalyanasundaram, Advocate, S.R.No.26793

Cr1.RC.No.495 of 2022

SR(CO)

CT 04/05/2022