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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.01.2022

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.1030 OF 2021

Manikandan

... Petitioner

Vs.

State Represented by,
The Inspector of Police,
Sendamangalam Police Station,
Namakkal District.

(Crime No.642 of 2021)

... Respondent

PRAYER:

The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, pleaded to call for the records relating the order dated 08.10.2021 made in C.M.P.No.1665 of 2021 in Crime No.642 of 2021 on the file of the learned Judicial Magistrate, Sendamangalam and set aside the same and direct the respondent herein to return the vehicle.

For Petitioner : Mr.C.C.Chellappan

For Respondent : Mr.S.Sugendran

Government Advocate (Crl.Side)

O R D E R

(This case has been heard through video conferencing)

The Criminal Revision Petition has been filed against the dismissal of the petition seeking for return of property.

2. The submissions of the learned counsel appearing for the petitioner is as under:-



(a) The petitioner is the owner of Honda Dio DLX (Yellow Colour) two wheeler bearing Engine No.JF98EW1089819 and Chasis No. ME47F982BMW015420 and the petitioner had purchased the vehicle through a Dealer namely, Foursix Auto Private Limited, Rasipuram. Due to the covid situation, he was unable to register the vehicle. Meanwhile, the petitioner's friend one Manikandan son of Senkodan from the same village had borrowed the vehicle for taking his relative to the hospital, thereafter, without the knowledge of the petitioner, he was involved in a prohibition offence in respect of which the case has been registered by the respondent/police in Crime No.642 of 2021 for the offence under Section 4(1)(a) of TN Prohibition Act and the vehicle was seized by the respondent.

(b) The petitioner is a poor mason working in and around Namakkal district and for having lent the vehicle for genuine cause, the vehicle had been seized in a prohibition offence without his knowledge. The petitioner is put to severe hardship and 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. The petitioner had filed a petition in C.M.P.No.1665 of 2021, seeking for return of property and the learned Judicial Magistrate, Sendamangalam, on 08.10.2021 had dismissed the petition stating that the vehicle is liable for confiscation. The petitioner is not an accused in this case and he has not been served any show cause notice till date. 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.Sugendran, learned Government Advocate (Crl.Side) would submit that the vehicle is an unregistered vehicle and the petitioner had given it to his friend one Manikandan and he had used the vehicle for transporting illicit liquor. He would further submit that show cause notice has not been issued so far.

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

5. In view of the above, the order dated 08.10.2021 in Crl.M.P.No.1665 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the learned Judicial Magistrate is directed to hand over the interim custody of the vehicle to the petitioner subject to the following conditions:



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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 learned Judicial Magistrate, Sendamangalam.

b) The petitioner shall file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and he will produce the vehicle before the trial Court as when required by the trial Court or the Investigating Agency.

c) The petitioner is directed to produce the proof of having purchased the vehicle and on such production, the Trial Court shall grant interim custody of the vehicle and within one month from the date of grant of interim custody of the vehicle, the petitioner shall register the vehicle before the Motor Vehicle Authority concerned and within two weeks from registering the vehicle, the petitioner shall produce the original R.C.book before the trial court. On the failure of the petitioner to produce the original R.C.book before the Court, the trial Court shall take steps to recover the vehicle. The RC book of the vehicle shall be retained by the trial Court till the disposal of the trial or until further orders.

6. 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(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The Judicial Magistrate,
Sendamangalam.



2. The Inspector of Police,
Sendamangalam Police Station,
Namakkal District.

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3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.C.C.Chellappan, Advocate, S.R.No.4370

Cr1.R.C.No.1030 of 2021

MT (CO)
PM/14/02/2022