



Crl.O.P.No.29423 of 2022

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 15.12.2022**

**CORAM:**

**THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN**

**Crl.O.P.No.29423 of 2022**

N.Rajarathinam

... Petitioner

**Vs.**

1.The Additional Superintendent of Police,  
Prohibition Enforcement Wing, Nagapattinam,  
Nagapattinam District.

2.The State by Inspector of Police,  
Prohibition Enforcement Police Station,  
Sirkazhi, Nagapattinam District.  
Crime No.966 of 2021

... Respondents

**PRAYER:** Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 14.10.2022 made in Crl.R.P.No.8 of 2021 on the file of the Court of Additional District Judge, Mayiladuthurai confirming the order dated 28.10.2021 made in Crl.M.P.No.3750 of 2021 on the file of the Court of Judicial Magistrate, Sirkazhi and consequently, direct the respondents to produce the petitioner's two-wheeler bearing Regn No.TN 82 E 6744 and grant interim custody of the same.



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For Petitioner : Mr.S.Abu Backer Sidhic

For Respondents :Mr.S.Santhosh  
Government Advocate (Crl.Side)

### **ORDER**

This Criminal Original Petition has been filed to set aside the order dated 14.10.2022 made in Crl.R.P.No.8 of 2021 on the file of the Court of Additional District Judge, Mayiladuthurai, confirming the order dated 28.10.2021 made in Crl.M.P.No.3750 of 2021 on the file of the Court of Judicial Magistrate, Sirkazhi and to direct the respondents to produce the petitioner's two-wheeler bearing Registration No.TN 82 E 6744 and grant interim custody of the same.

2. The learned counsel for the petitioner submitted that the petitioner is not an accused in Crime No.966 of 2021 for the offences punishable under sections 4(1)(a) r/w 4(1-A) TN Prohibition (Transport) Act. The petitioner is the owner of the vehicle, two wheeler bearing Registration No.TN 82 E 6744.



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He filed petition in Crl.M.P.No.3750 of 2021 before the learned Judicial Magistrate, Sirkali, seeking return of vehicle and the petition was dismissed on 28.10.2021. Challenging the dismissal order, the petitioner filed Crl.R.P.No.8 of 2021 before the learned Additional District Judge, Mayilduthurai. The learned Judge, dismissed the revision petition, by confirming the order passed by the learned Judicial Magistrate, Sirkali. Aggrieved over the dismissal, the present petition has been filed.

3. It is further submitted by the learned counsel for the petitioner that the vehicle was seized on 26.08.2021. The seized vehicle is parked in the open space and exposed to vagaries of weather and thereby, the value of the vehicle is diminishing day by day. The petitioner undertakes that the alleged vehicle will not be used for any other illegal activities in future and that the vehicle would be produced before the respondents or the confiscation authorities, as and when required for and thereby, he would seek to set aside the impugned order and direct the respondents to release his vehicle.



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4. The learned Government Advocate (crl.side) for the respondents, submitted that confiscation proceeding has been initiated in this case and in respect of the same, summon dated 18.12.2021 was issued to the petitioner with reference No.04/து.கா.க/ம.வ்/நா.ஸ்க2021.

5. In reply, learned counsel for the petitioner submitted that though the confiscation proceeding has been initiated, notice has not been served on the petitioner.

6. Heard the learned counsel for the petitioner and the learned Government Advocate (crl.side) for the respondents.

7. On perusal of confiscation notice, it appears that no final orders has been passed till date and that as of now, there is no material to show that the confiscation proceeding was concluded. Taking into consideration of the fact that the petitioner is not an accused and that notice regarding confiscation has not been served on the petitioner, this Court is of the view that the interim custody of the vehicle can be granted to the petitioner by imposing certain conditions.



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8. In view of the above, the order dated 14.10.2022 made in Crl.R.P.No.8 of 2021 on the file of the Court of Additional District Judge, Mayiladuthurai is set aside and the Criminal Original Petition stands disposed of with a direction to the respondents to hand over the interim custody of the vehicle to the petitioner subject to the following conditions:

i) The petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, Sirkali. On such execution, the petitioner's vehicle shall be immediately released to the custody of the petitioner.

ii) The petitioner shall produce the Original RC Book of the vehicle, before the Trial Court or Confiscation Authority. The RC book of the vehicle shall be retained by the Trial Court/Confiscation Authority till the disposal of the trial or until further orders from this Court.

iii) The petitioner shall 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 Trial Court or the Confiscating Authority as and when required by the Trial Court



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or the Investigating Agency.

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iv) The respondents are at liberty to 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.

(v)The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

9. Accordingly, this Criminal Original Petition stands disposed of.

**15.12.2022**

Internet:Yes

Index:Yes/No

Speaking/Non speaking order

shk



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To

- 1.The Judicial Magistrate,  
Sirkazhi
- 2.The Additional District Judge,  
Mayiladuthurai.
- 3.The Additional Superintendent of Police,  
Prohibition Enforcement Wing, Nagapattinam,  
Nagapattinam District.
- 4.The Inspector of Police,  
Prohibition Enforcement Police Station,  
Sirkazhi, Nagapattinam District.
- 5.The Public Prosecutor,  
High Court of Madras.



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**G.CHANDRASEKHARAN, J.**

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