



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 09.02.2022

CORAM:

THE HONOURABLE Mr. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C(MD).No.114 of 2022

B.Karapagavalli

... Petitioner/Petitioner

Vs

Station House Officer/
Sub Inspector of Police,
Sivakasi East Police Station,
Sivakasi, Viruthunagar District

... Respondent/Complainant

PRAYER: Criminal Revision case filed under Section 397 and 401 of the Code of Criminal Procedure, to call for the records in pursuant to the order passed in Crl.M.P.No.4309 of 2021 on the file of the learned Judicial Magistrate-II, Sivakasi, dated 27.12.2021 and set aside the same as illegal and consequently direct the respondent to return the vehicle bearing registration number TN-95-C-5438 TVS Scooty Pep+ Two Wheeler to the petitioner.

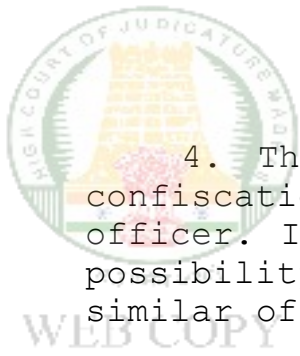
For Petitioner	: M/s.M.Kanchammal
For Respondent	: Mr.K.Sanjai Gandhi Government Advocate(Crl.Side)

O R D E R

This Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.4309 of 2021 on the file of the learned Judicial Magistrate-II, Sivakasi, dated 27.12.2021.

2. A two wheeler viz., TVS Scooty Pep+, bearing Registration No.TN-95-C-5438 was seized by the respondent police in Crime No.506 of 2021 for the offences under Sections 4(1-A) of Tamilnadu Prohibition Act. The petitioner claiming herself as the owner of the vehicle filed a petition in Crl.M.P.No.4309 of 2021 before the learned Judicial Magistrate-II, Sivakasi, for interim custody of the said vehicle and the same was dismissed for the reason that confiscation proceedings is pending on the said vehicle. Against the same, the petitioner has preferred this Revision.

3.The learned counsel for the petitioner submitted that the petition filed by the petitioner was dismissed only on the ground that confiscation proceedings is pending. A mere pendency of confiscation proceedings before the competent authority would not preclude the Court of law from exercising its jurisdiction for the return of vehicle in terms of the ingredients of Section 457 of Criminal Procedure Code.



4. The learned Additional Public Prosecutor submitted that confiscation proceedings already initiated by the prohibition officer. If the vehicle is returned to the petitioner, there is a possibility of the vehicle to be used for commission of the similar offence and prayed the petition to be dismissed.

5.This Court has repeatedly held that mere pendency of the confiscation proceedings is not a bar for granting the relief of interim custody of the vehicle and ordered return of vehicle. That apart, the vehicle of the petitioner is exposed in open space to vagaries of weather and thereby, the value of the vehicle is getting diminished.

6.In view of the aforesaid reasons, this Court is constrained to set aside the order passed by the learned Judicial Magistrate No.II, Sivakasi, made in Crl.M.P.No.4309 of 2021 dated 27.12.2021 and the criminal revision case is allowed.

7.The learned Judicial Magistrate No.II, Sivakasi, is directed to return the vehicle viz., TVS Scooty Pep+, bearing Registration No.TN-95-C-5438 on the following conditions:-

(i) The petitioner shall produce the original RC BOOK and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC Book and other records, retaining the Xerox copy of the same, shall return the original documents to the revision petitioner with a view to use the vehicle.

(ii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iii)The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the Court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar (CS)

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To

1. The Station House Officer/Sub Inspector of Police,
Sivakasi East Police Station,
Sivakasi, Viruthunagar District.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

CrI.R.C(MD) .No.114 of 2022

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