



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 27.04.2022

CORAM:

THE HON'BLE MR.JUSTICE **G.K.ILANTHIRAIYAN**

Crl.R.C. (MD)No.242 of 2021

Sundaram

... Petitioner/Petitioner

Vs.

1.The Inspector of Police,
All Women Police Station,
Vadasery,
Nagercoil.
(Crime No.48/2020)

2.Johnson

... Respondents/Respondents

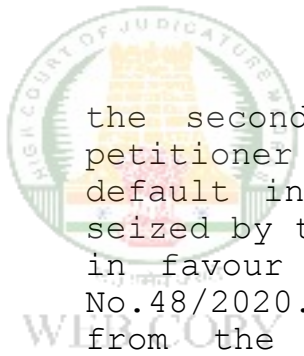
Prayer: This Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C. to call for the records in Crl.M.P.No.27 of 2021, dated 04.02.2021, on the file of the learned Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagercoil, set aside the same and consequently grant interim custody of the vehicle Bajaj KTM RC 200 BS III two wheeler bearing Regd.No.TN 75 X 8121 (Chassis No.MD2JYC4B0GC051205 & Engine No.690655226) to the petitioner.

For Petitioner	: Mr.C.T.Perumal
For R1	: Mrs.M.Aasha
	Government Advocate (Crl.Side)
For R2	: Mr.P.Venkatesan

ORDER

The Criminal revision petition has been filed seeking to set aside the order passed in Crl.M.P.No.27 of 2021, dated 04.02.2021, on the file of the learned Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagercoil and to grant interim custody of the vehicle Bajaj KTM RC 200 BS III, two wheeler bearing Registration No. TN 75 X 8121 (Chassis No.MD2JYC4B0GC051205 & Engine No.690655226) to the petitioner.

2.The accused one R. Vasantha Raj used the vehicle and committed the offence under POSCO Act against the minor victim girl. In pursuant to the crime, an FIR had been registered in Crime No.48/2020, on the file of the first respondent and the two wheeler used by the accused bearing Registration No. TN 75 X 8121 was seized from the accused and produced before the learned Judicial Magistrate in R.P.No.34/2020. Originally, the said vehicle was purchased by



the second respondent herein through the financier namely, the petitioner herein. Thereafter, the second respondent had committed default in payment of loan amount and as such, the vehicle was seized by the petitioner. After that, the said vehicle was sold out in favour of the accused, namely, one R. Vasantha Raj in Crime No.48/2020. After purchasing the said vehicle, by availing loan from the petitioner, the accused used the said vehicle for committing the above said crime. Admittedly, the accused also committed default in payment of loan amount.

3. On perusal of records revealed that the registration certificate of the said vehicle has got hypothecation endorsement that the petitioner had obtained loan from Reshinth Auto Finance and purchased the said vehicle. However, the Court below dismissed the petition on the ground that neither the petitioner nor the second respondent is the owner of the vehicle and the vehicle stands in the name of the accused. That apart, the accused never claimed the said vehicle since he defaulted in payment of loan amount to the petitioner Company. The two wheeler was seized in the year 2000 and it has been kept in open place exposing to the sunlight and rain. It would result to fade and its entire mechanism would be get damaged.

4. Considering the above facts and circumstances, the order passed by the learned Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagarcoil, is set aside. Therefore, the criminal revision petition is allowed. The learned Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagarcoil, is directed to return the vehicle on the following conditions:

(i) Accordingly, the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) with two solvent sureties, each for a like sum to the satisfaction of the learned Special Judge for exclusive trial of cases under POCSO Act, Kanyakumari District at Nagarcoil, within a period of four weeks from the date of receipt of a copy of this order.

(ii) The petitioner shall surrender the original Registration Certificate of the vehicle before the concerned Court.

(iii) the petitioner shall give an unconditional undertaking to the first respondent that he shall not alienate or encumber the vehicle in question without permission of the Jurisdictional Magistrate till the completion of the confiscation proceedings.

(iv) the petitioner shall not change the colour and scheme of the vehicle.



(v) the petitioner shall not use the vehicle for any illegal activities.

(vi) before releasing the vehicle, the police authority shall take photographs of the vehicle at the cost of the petitioner.

(vii) The petitioner shall produce all xerox copies of the documents pertaining to the ownership of the seized vehicle to the first respondent.

(viii) As and when the first respondent call for the vehicle for enquiry, the petitioner has to produce the vehicle in question and he shall cooperate with the enquiry to be conducted by the first respondent.

Sd/-

Assistant Registrar (CS-II)

// True Copy //

/ /2022

Sub Assistant Registrar(CS)

lr

Note: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Judge,
Special Judge for exclusive
trial of cases under POCSO Act,
Kanyakumari District at Nagarcoil.
- 2.The Inspector of Police,
All Women Police Station,
Vadasery,
Nagercoil.



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

COPY TO:-

The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai. (2 copies)

+1 CC to M/s.C.T. PERUMAL, Advocate (SR-22010[F]
dated 28/04/2022)

Crl.R.C. (MD)No.242 of 2021
27.04.2022

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