



Crl.R.C.(MD) No.673 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 25.07.2022

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.673 of 2022

M.Kaniraja

... Petitioner / Petitioner

Vs.

State represented by
The Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi District.
(Crime No.133 of 2022)

...Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the order dated 06.07.2022 passed by the learned Judicial Magistrate II, Thoothukudi in Cr.M.P.No.6076 of 2022 and allow the Criminal Revision.

For Petitioner : Mr.Jeganathan, C.

For Respondent : Mr.S.Manikandan,
Government Advocate (Crl. side)

ORDER

This Criminal Revision Petition is directed against the order passed in Cr.M.P.No.6076 of 2022, dated 06.07.2022 by the learned Judicial Magistrate



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Court No.II, Thoothukudi, dismissing the petition filed under Sections 451 and 457 Cr.P.C.

2. It is not in dispute that the respondent police registered a case in Crime No.133 of 2022 for the alleged offences under Sections 4(1)(a), 4(1) (I) and 14A (Transport) of Tamil Nadu Prohibition Act against the petitioner and that they have seized a vehicle viz., Yamaha Fasino two wheeler bearing Registration No.TN-69-BK-2764 and the same was remanded to police custody.

3. The petitioner claims to be the owner of the said vehicle, has filed a petition under Sections 451 and 457 Cr.P.C., seeking return of the vehicle, but the learned Magistrate, by observing that confiscation authority has already received the vehicle and the same has been seized by the confiscation authority and that Court do not possess sufficient jurisdiction to order of interim custody of the vehicle, has dismissed the application. Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.

4. The learned counsel for the petitioner would submit that the vehicle bearing Registration No.TN-69-BK-2764 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the



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vehicle is with the police from 03.04.2022 and that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the State would submit that the vehicle was seized under the provisions of Prohibition Act and confiscation proceeding was initiated and that therefore the learned Magistrate has rightly dismissed the petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

7. As already pointed out, the learned Magistrate has dismissed the petition mainly on the ground that confiscation proceedings have already been initiated.

8. It is also not in dispute that the vehicle in question was seized on 03.04.2022 and as of now, no confiscation order was passed by the concerned authority.

9. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of



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the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 06.07.2022 passed in Cr.M.P.No.6076 of 2022, by the learned Judicial Magistrate No.II, Thoothukudi.

10. Accordingly, this Criminal Revision Petition is allowed and the order dated 06.07.2022 in Cr.M.P.No.6076 of 2022 in Crime No.133 of 2022 on the file of the learned Judicial Magistrate No.II, Thoothukudi, is hereby set aside and the vehicle / Fasino two wheeler bearing Registration No.TN-69-BK-2764, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

- (a) the petitioner is directed to pay a sum of Rs.5,000/-(Rupees Five Thousand only) for the vehicle to the account of “Environmental Fund” to be maintained by the District Legal Services Authority, Thoothukudi District to preserve the environment ;
- (b) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Thoothukudi ;



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- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.II, Thoothukudi;
- (d) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

25.07.2022

Index : Yes/No
Internet : Yes/No
das

To:-

- 1.The Judicial Magistrate No.II,
Thoothukudi.
- 2.The Inspector of Police,
Thalamuthu Nagar Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

das

ORDER MADE IN
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