



Crl.R.C.No.282 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.02.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.282 of 2023

Aravali

... Petitioner

/vs/

1.State rep by
The Station House Officer,
Maraimalai Nagar Police Station,
Chengalpattu District.

... Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 r/w. 401 Cr.P.C. to call for the records made in Crl.M.P.No.12819 of 2022 dated 23.12.2022 on the file of the learned Judicial Magistrate II, Chengalpet, Chengalpet District and set aside the order dated 08.04.2022.

For Petitioner

... Mr.M.Sathishkumar

For Respondents

... Mr.V.Meganathan
Government Advocate (Crl.

Side)

ORDER

The Criminal Revision Case has been filed under Section 397 r/w.



CrI.R.C.No.282 of 2023

401 Cr.P.C. to call for the records made in CrI.M.P.No.12819 of 2022 dated 23.12.2022 on the file of the learned Judicial Magistrate II, Chengalpet, Chengalpet District and set aside the order dated 08.04.2022.

2.The learned counsel for the petitioner submitted that the petitioner is the accused in the case registered by the respondent Police in crime no.430 of 2022. The petitioner is working in the defacto complainant's company. He has purchased a vehicle from one Shanmugam on 07.08.2022. Though the transfer forms of the R.C.Book of the case property are executed, but before the Revenue Divisional Officer, the name change is not entered in R.C.Book. In the mean while, on 16.08.2022, the respondent Police registered a case and seized the vehicle. The trial Court dismissed the interim custody petition filed by the petitioner on the ground that the R.C. Book does not stands in the petitioner's name. Now, it is under challenge and according to the petitioner, he is the real owner of the vehicle and from him, the respondent police seized the two wheeler, and therefore, he seeks interim custody of the vehicle.



Crl.R.C.No.282 of 2023

3.Today, when the matter is taken up for hearing, the learned Government Advocate(Crl.side) submitted that the vehicle has been seized from the petitioner, but the R.C.Book does not stand in his name and only he has filed transfer Form 29 and Form 30, Transfer of ownership of a motor vehicle and transfer of Insurance Certificate.

4.I have considered the submissions made by the learned counsel on both sides and perused the entire materials available on record.

5.On perusal of the records, the fact reveals that the respondent police registered a case against the petitioner in Crime no.430 of 2022 on 16.08.2022 for the offence punishable under Section 381 Cr.P.C. in pursuance of the complaint given by one P.S.Kumar, who is the co-employee of the petitioner/accused. The allegation is that on 15.08.2022, while the petitioner returning from office at 8pm in his two wheeler namely Hero Honda Pleasure bearing Registration no.TN29AW1925, he had hidden 20.350 kilo grams of Copper cut silk under his seat worth about Rs.25,000/-. Therefore, a case was registered and the two wheeler as well



Crl.R.C.No.282 of 2023

as the theft articles were seized from the petitioner by the respondent police. Admittedly the R.C.Book was not standing in the name of the petitioner. According to the petitioner, he had purchased the two wheeler from one Shanmugam and to that effect, he has filed transfer Form 29 and Form 30, Transfer of ownership of a motor vehicle and transfer of Insurance Certificate. The vehicle has been seized by the respondent police from the petitioner within a short period. Considering the transfer Form 29 and Form 30, Transfer of ownership of a motor vehicle and transfer of Insurance Certificate, I am inclined to grant interim custody of the vehicle in favour of the petitioner.

6. At this juncture, it is relevant to refer a decision of the Hon'ble Supreme Court in ***“Sunderbhai Ambalal Desai and others Vs. State of Gujarat”*** in ***Special Leave Petition (Crl.) No. 2745 of 2023 dated 01.10.2002*** and the relevant portion is extracted hereunder.

Vehicles

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said



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Crl.R.C.No.282 of 2023

vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. *In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. **In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.***

Therefore, as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that, keeping the vehicle idle in the open space, will diminish its nature and lose its value and no purpose will be served. As such, considering the nature of offence and also taking into account the fact that the vehicle is not involved in any other previous cases of similar in nature, this Court is inclined to allow the Criminal Revision Case.

7. Accordingly, this Criminal Revision Case is allowed and the



CrI.R.C.No.282 of 2023

impugned order passed by the Trial Court is set aside. The respondent police is directed to return the vehicle bearing Registration no.TN29AW1925, to the owner of the vehicle on the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.25000/- (Rupees Twenty Five Thousand only) before the learned Judicial Magistrate II, Chengalpattu, Chengalpattu District.
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,
- v. the petitioner shall take photograph of the vehicle; and the same shall be produced before the Court.
- vi. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

Index : Yes/No

16.02.2023

Internet : Yes/No

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CrI.R.C.No.282 of 2023

To

1.State rep by
The Station House Officer,
Maraimalai Nagar Police Station,
Chengalpattu District.

2.The Public Prosecutor,
High Court of Madras,Chennai-104.

3. The Judicial Magistrate II,
Chengalpattu, Chengalpattu District



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Crl.R.C.No.282 of 2023

V.SIVAGNANAM ,J.

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Crl.R.C.No.282 of 2023

16.02.2023