



Crl.R.C. No.1311 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2023

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THE HONOURABLE MRS. JUSTICE **R.HEMALATHA**

Crl.R.C.No.1311 of 2023

Ravi

...Petitioner

Vs.

State represented by its
Vedaranyam Police Station
Nagapattinam District
Crime No.151 of 2023

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 and 401 Cr.P.C. praying to set aside the order dated 19.06.2023 in Crl.M.P. No.1408/2021 in Crime No.151 of 2023 on the file of the learned District Munsif cum Judicial Magistrate, Vedaranyam, and to return the two wheeler Yamaha Cyngus Ray ZR bearing Registration No, TN-51-AM-6274, Chasis No.ME1SEG463L0003370 and Engine No.E32SE0078317 to the custody of the petitioner.

For Petitioner : Mr.N. Palanivel

For Respondent ; Mr. R.Vinothraja, GA (Crl. Side)



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ORDER

Challenging the orders dated 19.06.2023 passed by the learned District Munsif cum Judicial Magistrate, Vedaranyam, in Crl.M.P. No.1408/2021 in Crime No.151 of 2023, filed for the return of the vehicle, namely, Yamaha Cyngus Ray ZR bearing Registration No, TN-51-AM-6284, that was seized from the present revision petitioner in connection with Crime No.151 of 2023 of Vedaranyam Police Station, Nagapattinam District, the present petition is filed.

2. The case of the prosecution is that when the Inspector of Police, Vedaranyam Police Station, and his team were on routine vehicle check up on 17.05.2023, they intercepted a two wheeler, namely, Yamaha Cyngus Ray ZR bearing Registration No, TN-51-AM-6284, at about 11 a.m. and found the accused transporting 15 litres of arrack. The accused was arrested and the contraband along with the vehicle were seized. An FIR in Cr.No.151 of 2023 was registered by the Inspector of Police, Vedaranyam Police Station, Nagapattinam District, for the offences under Section 4(1)(a) and 4(1-A) of Tamilnadu



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Prohibition Act, against the present petitioner/accused and he was produced before the District Munsif cum Judicial Magistrate, Vedaranyam, and was remanded to judicial custody on the same day.

3. The revision petitioner/accused filed a petition in Crl.M.P.No.1408/2023 under Sections 451 r/w 457 Cr.P.C., before the District Munsif cum Judicial Magistrate Court, Vedaranyam, praying for interim custody of the vehicle. The said petition was dismissed by the learned District Munsif cum Judicial Magistrate, Vedaranyam, vide his orders dated 19.06.2023, on the ground that confiscation proceedings have been initiated pursuant to which the vehicle was sent to P.E.W Nagapattinam. Aggrieved over the same, the present petition is filed.

4. Heard Mr.N. Palanivel, learned counsel for the petitioner and Mr. R.Vinothraja, GA (Crl. Side) for the respondent.

5. Mr.N. Palanivel, learned counsel for the petitioner contended that the present petitioner has not committed any offence as alleged by



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the respondent police and that if the seized two wheeler is kept in open space in the police station, the value of the same would get diminished over a period of time. He therefore, prayed for return of the vehicle.

6. Per contra, Mr. R.Vinothraja, Government Advocate (Crl. Side) appearing for the respondent would contend that the confiscation proceedings had been initiated and the vehicle was also sent to P.E.W. Nagapattinam.

7. At this juncture, it is pertinent to point out the decision of the Hon'ble Supreme Court of India in ***State of M.P. Vs. Uday Singh [(2020) 12 SCC 733]***, in which it has been held as follows:

“29.4.....The jurisdiction under Section 451 CrPC was not available to the Magistrate, once the authorised officer initiated confiscation proceedings.”

In the instant case, the confiscation proceedings have already been initiated. Therefore, in view of the abovesaid decision, the petitioner is not entitled for the interim custody of the vehicle as prayed for by him.



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However, It is seen from the records that the order of the trial court was passed on 19.06.2023 and till date, the respondent has not completed the confiscation proceedings. Therefore, I am inclined to dispose off the Criminal Revision Case on the following terms.

- i. Since the confiscation proceedings are pending, the petitioner is not entitled for return of the vehicle;
- ii. The respondent is directed to complete the confiscation proceedings within two months from the date of receipt of a copy of this order;
- iii. If the confiscation proceedings are not completed within the date stipulated above, then the petitioner will be entitled for return of the custody of the vehicle on the following conditions:
 - a) The order of the learned District Munsif cum Judicial Magistrate Vedaranyam, in Crl.M.P. No.1408/2023, dated 19.06.2023, is set aside.
 - b) The petitioner will be entitled for return of the vehicle, namely, Yamaha Cyngus Ray ZR bearing Registration No,



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TN-51-AM-6284.

- c) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove its ownership and the learned Judge, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;
- d) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;
- e) 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.
- f) 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



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the confiscation proceedings.

- g) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle (Yamaha Cyngus Ray ZR bearing Registration No, TN-51-AM-6284), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

26.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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R. HEMALATHA, J.
bga

To

The District Munsif cum Judicial Magistrate, Vedaranyam.

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