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Crl.R.C.No.1331 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

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

Crl.R.C.No.1331 of 2023

R.Amarnath

... Petitioner

Vs.

The State Rep. by
the Inspector of Police,
Kallakurichi Police Station,
kallakurichi District.
(Crime No.170/2023)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to call for the records in Crl.M.P.No.413 of 2023, dated 13.07.2023 on the file of the Judicial Magistrate I, Kallakurichi and set aside the same, subsequently grant interim custody of vehicle bearing Registration No.TN 15 T 0081 Bajaj Pulsar to the petitioner.

For Petitioner : Mr.R.Saravana pandiyan

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



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ORDER

The present criminal revision case is filed, praying to set aside the orders, dated 13.07.2023, passed in Crl.M.P.No.413 of 2023 on the file of the Judicial Magistrate I, Kallakurichi.

2. The present revision petitioner filed the petition under Sections 451 / 457 of Cr.P.C., in Crl.M.P.No.413 of 2023 before the learned Judicial Magistrate I, Kallakurichi, seeking return of his two wheeler Bajaj Pulsar bearing Registration No.TN 15 MC 0081 which was seized by the respondent, Kallakurichi Police Station, kallakurichi District in connection with Crime No.170/2023 for the alleged offences punishable under Sections 294 (b), 506 (ii) IPC r/w. Section 3 of Tamil Nadu Public Property (Prevention of Damage & Loss) Act, 1992. The learned Judicial Magistrate I, Kallakurichi vide orders dated 13.07.2023 dismissed the said petition. Aggrieved over the said orders, the present revision is filed.

3. Heard, Mr.R.Saravana pandiyan, learned counsel for the



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revision petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) learned counsel for the respondent.

4. Mr.R.Saravana pandiyan, learned counsel for the petitioner contended that the present petitioner is not involved in any offence and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.

5. Per contra, the learned Government Advocate (Crl. side) contended that if the vehicle is returned to the revision petitioner, he may use the same for committing similar offence. Hence, he sought for dismissal of the petition.

6. 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 Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*, wherein, it is held thus:

Vehicles



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

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.”

7. Keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time. As such, considering the



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ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the Revision Petition.

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 13.07.2023 passed by the learned Judicial Magistrate I, Kallakurichi is set aside and the vehicle may be returned to the petitioner on the following conditions:

- i) the petitioner shall prove her ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) before the learned Judicial Magistrate I, Kallakurichi, Chennai.
- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle bearing registration No. TN 15 MC 0081 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 15 MC 0081 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used



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as secondary evidence.

v) the petitioner shall not alienate or encumber the vehicle in any manner;

vi) the petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in future,

vii) the petitioner shall also produce the vehicle as and when required by the court below and by the respondent police.

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Index: Yes/No
Speaking/Non-Speaking order
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2. The Inspector of Police,
Kallakurichi Police Station,
Kallakurichi District.
3. The Section Officer,
Criminal Section, High Court,
Madras.

R. HEMALATHA, J.



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