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CrI.R.C.No.1680 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.10.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.1680 of 2023

Murugan

... Petitioner

Vs.

State Rep.by,

The Inspector of Police,

PEW Madurantakam Police Station,

Chengalpattu District.

(Crime No.722 of 2023).

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set-aside the order dated 12-09-2023 made in Cr.M.P.No.4753 of 2023 on the file of the Judicial Magistrate No.II, Maduranthakam, and consequently return the vehicle & Mobile Phone and to allow the above Criminal Revision Petition.

For Petitioner : Mr.R.Rajadurai

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor

ORDER

The petitioner is the owner of the vehicle, namely, Bajaj Pulsar NS 160 bearing registration No.TN 19 BX 6215 has filed a return of property petition before the learned Judicial Magistrate No.II, Maduranthakam in



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Cr.M.P.No.4753 of 2023. The Court below, by order, dated 12.09.2023 citing the initiation of confiscation proceedings, dismissed the petition *vide* order, dated 12.09.2023.

2.The contention of the petitioner is that the petitioner is the owner of the above said vehicle. The admitted case of the respondent Police is that one Santhosh, who is the friend of the petitioner, is an accused in Crime No.722 of 2023 registered by the respondent Police for offence under Section 4(1)(a) of the Tamil Nadu Prohibition Act on 14.08.2023. His further contention is that the petitioner is no way connected with the alleged offence committed by his friend Santhosh. The petitioner is an agriculture Cooli and his vehicle is the only source of his mobility. Further, the petitioner's son is a student, who used to use the said vehicle to attend class and tuition. Due to detention of the said vehicle, the petitioner as well as his son are put to great difficulty and the education of the petitioner's son could not be pursued effectively. Hence, he prays for setting aside the order of the Court below.



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3.The learned Additional Public Prosecutor appearing for the respondent Police opposed this revision and submitted that even while registering FIR in Crime No.722 of 2023, the respondent Police mentioned about the initiation of confiscation proceedings under Section 14(4) of the Tamil Nadu Prohibition Act. Added to it, notice of confiscation, dated 31.08.2023 served to the petitioner on 06.09.2023, which is recorded in the lower Court dismissal order, dated 12.09.2023. The grounds raised by the petitioner herein are to be raised before the confiscation authority. In the event of the petitioner claimed to be genuine, appropriate orders can be obtained. At this stage, the petitioner cannot approach this Court directly.

4.It is not in dispute that the petitioner is the owner of the vehicle, namely, Bajaj Pulsar NS 160 bearing registration No.TN 19 BX 6215. It is seen that from 14.08.2023, the vehicle is kept in open yard of the Police Station, exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished day by day. The only requirement is subject to the outcome of the confiscation proceedings, the vehicle can



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be returned to the petitioner. The Hon'ble Apex Court in the case of ***“Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290”***, had given guidelines in the cases of return of property to the owner.

5.Further, this Court in the case of ***“Sakthidevi Versus State by The Inspector of Police, Thittachery Police Station, Nagapattinam District in Crl.R.C.No.501 of 2011”***, considered the case of ***“David Vs. Sakthivel, Inspector of Police-cum-Station House Officer reported in 2010 1 MLJ (Crl.) 929”*** and ordered return of seized vehicle to the owner, which is being consistently followed, despite initiation of the confiscation proceedings.

6.In view of the aforesaid reasons and finding that the initiation of the confiscation proceedings would not deny the petitioner from executing the bond and getting back his vehicle, this Court set asides the order passed by the learned Judicial Magistrate No.II, Madhuranthakam, made in Crl.M.P.No.4753 of 2023, dated 12.09.2023. Accordingly, this criminal revision case is allowed.



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7.The learned Magistrate is directed to return the vehicle, namely, Bajaj Pulsar NS 160 bearing registration No.TN 19 BX 6215 to the petitioner, on the following conditions:-

(i)The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Madhuranthakam;

(ii)The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

(iii)The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;



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(iv)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 Police 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.

(v)The petitioner shall participate in the confiscation proceedings and shall produce the vehicle before the confiscation authority. This order is subject to the outcome of the confiscation proceedings.

10.10.2023

Index: Yes/No
Internet: Yes/No
Neutral Citation: Yes/No
Speaking Order/Non-Speaking Order

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To

1.The Judicial Magistrate Court No.II,
Madhuranthakam.



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2.The Inspector of Police,
PEW Madurantakam Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.
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