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Crl.R.C.No.1882 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1882 of 2023

Sundari

... Petitioner

Vs.

The State Rep. by,
Inspector of Police,
F-4, Thousand Light Police Station,
Chennai.
[Crime No.168/2023].

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the dismissal order passed by the learned XIV Metropolitan Magistrate at Egmore in Crl.M.P.No.39236 of 2023 dated 17.10.2023 and further directing to the learned XIV Metropolitan Magisterial at Egmore to return the petitioner's Two wheeler in bearing Reg.No.TN-06-6990 Yamaha Ray to the petitioner.

For Petitioner	:	Mr.P.Surendran
For Respondent	:	Mr.A.Damodaran, Additional Public Prosecutor

ORDER

This Criminal Revision Case has been filed to set aside the impugned order, dated 17.10.2023 in Crl.M.P.No.39236 of 2023 passed by the learned XIV Metropolitan Magistrate, Egmore, Chennai.



2.The learned counsel for the petitioner submitted that one Dinesh was working as Manager in Biko Nerwalla Hotel. On 30.08.2023, one Krishna, Cook from Biko Nerwalla Hotel was coming to work at about 10.30 a.m., at that time, two persons came in the bike, restrained him near Lalithkala Academy, snatched Vivo Y-16 cellphone and sped away in the bike. On the complaint of said Dinesh, an FIR in Crime No.168 of 2023 for offence under Section 379 of IPC was registered. During investigation, A1-Dhanush was arrested who had used the petitioner's bike bearing Registration No.TN 06 S 6990 for commission of offence. Thereafter, the said bike was produced before the lower Court. The learned counsel further submitted that the petitioner purchased the said bike for her son who is a college going student, from whom, A1 and A2 who are from the same area took the bike for riding and without the knowledge of the petitioner and his son, committed the offence, for which, now the petitioner and her son are trouble and the bike has been detained by the respondent Police.

3.The learned Additional Public Prosecutor appearing for the respondent Police submitted that A1 and A2 committed the offence of



snatching of mobile phone from one Krishna by using the petitioner's bike bearing Registration No.TN 06 S 6990. On complaint of the defacto complainant, a case in Crime No.168 of 2023 registered for offence under Section 379 of IPC. He further submitted that the petitioner purchased the bike from one Shabir Hussain, but sofar the ownership of the vehicle not transferred in the name of the petitioner. Hence, strongly opposed this revision.

4.Considering the submissions and on perusal of the materials, it is not in dispute that neither the petitioner nor her son are accused in this case. It is found that the vehicle stands in the name of one Shabir Hussain, S/o.Zakir Hussain. The petitioner filed affidavit of Shabir Hussain confirming that the sale of vehicle to the petitioner on 12.02.2018 and handing over all the ownership documents to the petitioner. But the petitioner not took steps to transfer the ownership of the vehicle to her name. From the affidavit, it is seen that the said Shabir Hussain has got no objection for handing over the vehicles to the petitioner.



5.It is seen that from the date of recovery, the vehicle is kept in open space exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. 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.

6.Considering the fact that erstwhile owner of the vehicle confirmed by way of affidavit that the petitioner purchased the vehicle from him, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Yamaha Ray Registration No.TN 06 S 6990 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

(i)The petitioner shall execute a personal 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 XIV Metropolitan Magistrate, Egmore, Chennai. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;



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(ii)The petitioner shall not alter or alienate the vehicle in question till the completion of trial.

(iii)The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned XIV Metropolitan Magistrate, Egmore, Chennai.

(v) The petitioner shall produce the vehicle as and when directed to do so.

7.In view of the above, the impugned order, dated 17.10.2023 made in Crl.M.P.No.39236 of 2023 passed by the learned XIV Metropolitan Magistrate, Egmore, Chennai is set aside and the revision is, accordingly, allowed.

24.11.2023

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

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M.NIRMAL KUMAR, J.

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To

- 1.The XIV Metropolitan Magistrate Court,
Egmore, Chennai.
- 2.The Inspector of Police,
F-4, Thousand Light Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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