



Crl.R.C.(MD) No.311 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 17.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.311 of 2023

Augustinraja

... Petitioner/Petitioner

Vs.

State represented through
The Sub Inspector of Police,
PEW Kovilpatti,
Thoothukudi District.
(Crime No.95 of 2023)

... Respondent/Respondent

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records and set aside the impugned order passed by the learned Judicial Magistrate Court No.1, Kovilpatti in Crl.M.P.No. 2874 of 2023 dated 28.02.2023 and consequently direct to release the petitioner's two wheeler vehicle TN-96-A-3108 (Bajaj Platina) in Crime No.95 of 2023.

For Petitioner : Mr.P.Ponraj,

**For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl. side).**



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ORDER

This Criminal Revision Petition is directed against the order passed in CrI.M.P.No.2874 of 2023 dated 28.02.2023 on the file of the learned Judicial Magistrate No.I, Kovilpatti, dismissing the petition filed under Sections 451 and 457 Cr.P.C., for returning of the vehicle.

2. It is not in dispute that the respondent police registered a case in Crime No.95 of 2023 for the alleged offences under Sections 4(1)(a), 4(1)(i) and 14A of Tamil Nadu Prohibition Act against the petitioner and that they have seized a vehicle viz., two wheeler bearing Registration No.TN-96-A-3108 and the same was remanded.

3. The petitioner, claiming to be the owner of the said vehicle, has filed a petition under Sections 451 and 457 Cr.P.C., seeking return of the vehicle, but the learned Magistrate, by observing that confiscation authority has already received the vehicle and the same has been seized by the confiscation authority and that Court do not possess sufficient jurisdiction to order of interim custody of the



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vehicle, has dismissed the application. Challenging the dismissal order, the above Criminal Revision came to be filed before this Court.

4. The learned counsel appearing for the petitioner would submit that the vehicle bearing Registration No.TN-96-A-3108 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the vehicle is with the police from 13.02.2023 and that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the vehicle was seized under the provisions of Prohibition Act and confiscation proceeding was initiated and that therefore the learned Magistrate has rightly dismissed the petition.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

7. As already pointed out, the learned Magistrate has dismissed the petition mainly on the ground that confiscation proceedings have already been initiated.



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8. It is also not in dispute that the vehicle in question was seized on 13.02.2023 and as of now, no confiscation order was passed by the concerned authority.

9. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 28.02.2023 passed in Crl.M.P.No.2874 of 2023, by the learned Judicial Magistrate No.I, Kovilpatti.

10. Accordingly, this Criminal Revision Petition is allowed and the order dated 28.02.2023 in Crl.M.P.No.2874 of 2023 in Crime No.95 of 2023 on the file of the learned Judicial Magistrate No.I, Kovilpatti, is hereby set aside and the vehicle / two wheeler bearing Registration No.TN-96-A-3108, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-



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- (a) the petitioner is directed to deposit a sum of Rs.10,000/- (Rupees Ten Thousand only) as non-refundable for the vehicle to the credit of Government of Tamil Nadu, CMPRF in IOB, Secretariat Branch, Chennai-9 (Account No.11720 10000 00070, IFSC Code: IOBA0001172) ;
- (b) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.1, Kovilpatti;
- (c) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate No.1, Kovilpatti;
- (d) the petitioner shall not alienate and shall not make any alteration in the vehicle; and
- (e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

17.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
csm



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K.MURALI SHANKAR, J.

csn

To:-

1. The Judicial Magistrate No.I,
Kovilpatti.
2. The Sub Inspector of Police,
PEW Kovilpatti,
Thoothukudi District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
CrI.R.C.(MD)No.311 of 2023**

17.03.2023