



Crl.R.C.(MD) No.353 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : **28.03.2023**

CORAM:

THE HONOURABLE MR.JUSTICE **K.MURALI SHANKAR**

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Katturaja

... Petitioner/Petitioner/Owner
of the vehicle

Vs.

The State represented through
The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.
(Crime No.350 of 2022)

... Respondent/Respondent/
Complainant

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set-aside the impugned order dated 09.02.2023 made in Crl.M.P.No.17 of 2023 on the file of the learned District Munsif cum Judicial Magistrate, Kadaladi and consequently to direct the respondent to return the petitioner's vehicle, namely, Hero Splendor Two wheeler bearing Registration No.TN-65-BZ-7785 to the petitioner forthwith.



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For Petitioner : Mr.M.S.Jeyakarthik,
For Respondent : Mr.A.Albert James,
Government Advocate (Crl. side).

ORDER

This Criminal Revision Petition is directed against the order passed in CrI.M.P.No.17 of 2023 dated 09.02.2023 on the file of the District Munsif cum Judicial Magistrate Court, Kadaladi, 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 Inspector of Police, PEW-Ramanathapuram registered a case in Crime No.350 of 2022 for the alleged offence under Section 4(1)(a) of TN Prohibition Act against the petitioner and that they have seized a vehicle viz., two wheeler bearing Registration No.TN-65-BZ-7785 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



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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 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-65-BZ-7785 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 13.04.2022 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.



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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.

8. It is also not in dispute that the vehicle in question was seized on 13.04.2022 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 09.02.2023 passed in Crl.M.P.No.17 of 2023, by the learned District Munsif cum Judicial Magistrate, Kadaladi.

10. Accordingly, this Criminal Revision Petition is allowed and the order



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dated 09.02.2023 in Crl.M.P.No.17 of 2023 in Crime No.350 of 2022 on the file of the learned District Munsif cum Judicial Magistrate, Kadaladi, is hereby set aside and the vehicle / two wheeler bearing Registration No.TN-65-BZ-7785, 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:-

- (a) the petitioner shall execute a bond for a sum of **Rs.50,000/-** (Rupees Fifty Thousand only), with two sureties for a likesum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Kadaladi;
- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned District Munsif cum Judicial Magistrate, Kadaladi.;
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle; and
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

28.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csm

To:-

1. The District Munsif cum Judicial Magistrate,
Kadaladi.
2. The Deputy Superintendent of Police,
Prohibition Enforcement Wing,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.353 of 2023**

28.03.2023