



Crl.R.C.(MD).No.735 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 14.07.2023

CORAM :

THE HONOURABLE MR.JUSTICE K.K. RAMAKRISHNAN

Crl.R.C(MD).No.735 of 2023

Mareeswari

... Petitioner

Vs.

State through
The Sub Inspector of Police,
West Police Station,
Virudhunagar.
(Crime No.121 of 2022)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w. 401 Cr.P.C., to call for the records relating to the order passed in Crl.M.P.No. 7735 of 2022 on the file of the Judicial Magistrate No.I, Virudhunagar, dated 13.12.2022 set aside the same.

For Petitioner : Mr.L. Prabhu

For respondent : Mr. P. Kottaichamy

Government Advocate (Crl. Side)



Crl.R.C.(MD).No.735 of 2023

ORDER

WEB COPY

This Criminal Revision has been filed to call for the records relating to the order, dated 13.12.2022 passed in Crl.M.P.No.7735 of 2022 on the file of the learned Judicial Magistrate No.I, Virudhunagar and set aside the same.

2. The petitioner is the wife of A2 in Crime No.121 of 2022 and she is the owner of the property and her vehicle was wrongly roped in the above Crime. According to the prosecution, on 06.07.2022, her husband /A2 and another accused/A1 transported the banned Tobacco and therefore committed the offence under Section 328 IPC r/w under Section 24(1) of Cigarette and Other Tobacco Product Act, 2003, and hence, the respondent police seized the vehicle and produced the same before the appropriate Court.

3. Therefore, the owner of the vehicle namely the petitioner filed Crl.M.P.No.7735 of 2022 under Section 457 Cr.P.C., before the Court below seeking interim custody of the vehicle and the same was dismissed by the learned Judicial Magistrate No.I, Virudhunagar by impugned order, dated 13.12.2022. Challenging the same, the petitioner



Crl.R.C.(MD).No.735 of 2023

has filed the present revision.

WEB COPY

4. The learned counsel appearing for the petitioner would submit that the petitioner's vehicle is in custody from 06.07.2022 and that the value of the vehicle will be deteriorated due to the exposure to sun and rain.

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

6. The Hon'ble Supreme Court issued the following guidelines to grant interim custody under Section 451 of CR.P.C., in ***Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283*** is as follows:

7. In our view, the powers under Section 451 CrPC should be exercised expeditiously and judiciously. It would serve various purposes, namely:

- 1. owner of the article would not suffer because of its remaining unused or by its misappropriation;*
- 2. court or the police would not be required to keep the article in safe custody;*



3. if the proper panchnama before handing over possession of the article is prepared, that can be used in evidence instead of its production before the court during the trial. If necessary, evidence could also be recorded describing the nature of the property in detail; and

4. this jurisdiction of the court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles.

7. Considering the above judgment of the Hon'ble Supreme Court 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 and there was no confiscation proceedings initiated under any law, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 13.12.2022, passed in Crl.M.P.No.7735 of 2022, by the learned Judicial Magistrate No.I, Virudhunagar.

8. Accordingly, this Criminal Revision Case is allowed and the order, dated 13.12.2022, passed in Crl.M.P.No.7735 of 2022, by the learned Judicial Magistrate No.I, Virudhunagar, is hereby set aside and



Crl.R.C.(MD).No.735 of 2023

the vehicle / Two Wheeler TVS Jupiter, bearing Registration No.TN-67-

BM-1148, is ordered to be returned to the petitioner for interim custody

of the petitioner forthwith on the following conditions:-

- (a) 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.I, Virudhunagar.
- (b) the petitioner shall produce the original Registration Certificate before the learned Judicial Magistrate No.I, Virudhunagar.
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (d) the respondent police directed to take necessary photographs and prepared the panjanama and produce before the trial Court.
- (e) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

14.07.2023

NCC :Yes/No

Index :Yes/No

Internet : Yes/ No

trp



Crl.R.C.(MD).No.735 of 2023

WEB COPY To

1. The Judicial Magistrate No.I, Virudhunagar,
2. The Sub Inspector of Police,
West Police Station,
Virudhunagar.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.



WEB COPY



Crl.R.C.(MD).No.735 of 2023

K.K. RAMAKRISHNAN. J.,

trp

Order made in
Crl.R.C(MD).No.735 of 2023

Dated : 14.07.2023