



WEB COPY



Crl.R.C.No.77 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.03.2024

CORAM

THE HONOURABLE **MR.JUSTICE M.NIRMAL KUMAR**

Crl.R.C.No.77 of 2024

Selvaraj

... Petitioner

Vs.

The State by  
Sub Inspector of Police,  
Uthangarai Police Station,  
Krishnagiri District.  
Crime No.656 of 2023.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 30.11.2023 made in Crl.M.P.No.6578 of 2023 on the file of the Judicial Magistrate, Uthangarai and consequently direct the respondent police to return the petitioner vehicle two wheeler bearing Regn.No.TN-24-AZ-4915, Engine No.MC20AHNGG01475, Chassis No.MBLLDL065NGG01882 by allowing this Criminal Revision Petition.

For Petitioner : Mr.J.Pradeep

For Respondent : Mr.S.Raja Kumar  
Additional Public Prosecutor



Crl.R.C.No.77 of 2024

WEB COPY

## **ORDER**

The petitioner is the owner of two wheeler bearing Registration No.TN-24-AZ-4915, which was seized by the respondent Police in Crime No.656 of 2023 for offence under Section 25(1A) of the Arms Act, 1959. The petitioner filed a return of property petition in Crl.M.P.No.6578 of 2023 before the learned Judicial Magistrate, Uthangarai. The learned Magistrate, by order dated 30.11.2023 dismissed the return of property petition, against which, the present revision has been filed.

2.The contention of the learned counsel for petitioner is that the petitioner had lent his bike to one Deena, who is also hailing from the same village of the petitioner. Deena's wife has to be taken to the hospital, since she was not well. Hence, on the request of Deena, the petitioner lent the vehicle to the said Deena. The said Deena was carrying a country rifle of his grandfather without any valid license, hence, during the road checkup, the



CrI.R.C.No.77 of 2024

WEB COPY

vehicle was intercepted, Deena was enquired, gun was seized as well as motor bike of the petitioner seized. The petitioner had no knowledge about Deena having unlicensed country gun. The petitioner had purchased the two wheeler for his requirements and needs. It is further submitted that now the vehicle is kept in open space exposing to vagaries of weather, further detention would make the vehicle unusable, rusted and it would become a scrap. Hence, he prays for return of vehicle.

3.The Additional Public Prosecutor appearing for the respondent Police filed a counter and submitted that the case of the prosecution is that on 09.10.2023 at about 07.30 hours. when the Sub Inspector of Police was in patrol duty along with his team at Uthangarai to Thirupathur Road. At that time one Dheena came in Two Wheeler bearing registration No.TN 24 AZ 4915 X Pulse in suspicious manner. Thereafter the respondent police conducted search with him and found one Pistol along with bullets without any legal permission. Then the Sub Inspector of Police arrested the accused



Crl.R.C.No.77 of 2024

WEB COPY

and seized the Pistol along with bullet and Two Wheeler under the cover of seizure mahazar in the presence of witnesses. Hence the complaint.

3.1.He further submitted that based on the complaint, a case was registered in Uthangarai Police Station, Krishnagiri in Crime No.656 of 2023, under Section 25(1)(a) of Arms Act against the accused on 09.10.2023 by the then Inspector of Police and he took up the case for investigation. During the course of investigation, the then Inspector of Police produced the arrested accused before the Learned Judicial Magistrate, Krishnagiri and remanded him to Judicial custody on 09.10.2023. During the course of investigation, the above seized pistol along with bullets and Two Wheeler bearing registration No.TN 24 AZ 4915 X Pulse were produced before the learned Judicial Magistrate, Uthangarai and the same was taken on file and assigned C.P.No.168 of 2023.

3.2.He further submitted that during the course of pending investigation, the petitioner namely Selvaraj, who is the friend of accused



Crl.R.C.No.77 of 2024

WEB COPY

filed a petition under Section 451 Cr.P.C for return of the Two Wheeler bearing registration No.TN 24 AZ 4915 X Pulse before the learned Judicial Magistrate, Uthangarai in Crl.M.P.No.6578 of 2023 in which he stated that he is the owner of the seized vehicle and R.C. Book is in his name. The said petition was dismissed on 30.11.2023 for the reasons that the petitioner is the friend of accused and if the vehicle is returned to the petitioner, it may be used in similar nature of offence and he may not produce the vehicle during trial. In view of the above, he prays for dismissal of the criminal revision case.

4.Considering the submissions made and on perusal of the materials, it is seen that the petitioner is the owner of the vehicle, viz., X Pulse bearing Registration No.TN 24 AZ 4915 and he is not an accused in this case. The petitioner and said Deena, who is the accused in this case, are hail from the same village. The case of the prosecution itself is that one Ramar, grandfather of Deena was in possession of the country made rifle for



Crl.R.C.No.77 of 2024

WEB COPY

the past 20 years and after the death of his grandfather the said Deena was having the rifle, which was used for hunting small price. The act of Deena seems to be an independent one and nothing more. The petitioner had been mislead and he lent bike to Deena to take his wife for medical treatment.

5.Further it is seen that from the date of seizure, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become immobile. 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.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,***



Crl.R.C.No.77 of 2024

**Inspector of Police-cum-Station House Officer reported in 2010 1 MLJ**  
**WEB COPY**

(Crl.) 929” and ordered return of seized vehicle to the owner, which is being consistently followed, despite initiation of the confiscation proceedings.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 30.11.2023 passed by the learned Judicial Magistrate, Uthangarai in Crl.M.P.No.6578 of 2023 is set aside. In view of the same, the learned Judicial Magistrate, Uthangarai is directed to return the vehicle, X Pulse bearing Registration No.TN 24 AZ 4915 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, Uthangarai;

(ii) The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate, Uthangarai shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;



Crl.R.C.No.77 of 2024

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

(iv) The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the respondent and by the court below.

11.03.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

rsi



Crl.R.C.No.77 of 2024

WEB COPY

- To
- 1.The Sub Inspector of Police,  
Uthangarai Police Station,  
Krishnagiri District.
  - 2.The Judicial Magistrate,  
Uthangarai.
  - 3.The Public Prosecutor,  
High Court, Madras.



WEB COPY



Crl.R.C.No.77 of 2024

**M.NIRMAL KUMAR, J.**

rsi

**Crl.R.C.No.77 of 2024**

**11.03.2024**