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CrI.R.C.No.419 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CrI.R.C.No.419 of 2024

Hemalatha

... Petitioner

Vs.

State: Inspector of Police,
Thuraipakkam Police Station,
(Crime No.82 of 2023).

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the Additional District and Sessions Judge, Chengalpet in CrI.M.P.No.5767 of 2023 dated 06.01.2024.

For Petitioner	:	Mr.J.Samiullah
For Respondent	:	Mr.S.Raja Kumar Additional Public Prosecutor

ORDER

The petitioner has filed a petition under Section 451 of Cr.P.C., before the learned Additional District & Sessions Judge, Chengalpet in CrI.M.P.No.5767 of 2023 to return the vehicle namely Pulsar 220 DTSI bearing registration No.TN-18-AE-3420. The learned Judge, by order, dated 06.01.2024 dismissed the same, against which, the present Criminal



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Revision Case is filed.

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2.The contention of the petitioner is that the petitioner purchased the said vehicle for usage of her husband who is A1 in Crime No.82 of 2023 for offence under Sections 147, 148 & 302 of IPC. The case projected against A1 is that A1 along with the other accused said to have committed murder of one Murugan @ Kanmooi Murugan. He further submitted that the petitioner is not aware about her husband involvement in committing offence and the vehicle seized by the respondent. Even on going through the FIR, it is seen that A1 along with other accused travelled in auto and committed murder of Murugan @ Kanmooi Murugan. Hence, the petitioner's vehicle is not at all involved in the above said crime. It is submitted that the vehicle is kept in open space exposing to vagaries of weather, further detention of vehicle would make the vehicle unusable, rusted and it would become a scrap. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle. Hence, he prays for return of property.



3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter submitting that on 08.02.2023 at about 14.00 hours, based on the information, the Sub Inspector of Police rushed to the scene of occurrence and saw the deceased Murugan @ Kanmooi Murugan body who is involved in many criminal cases. The Sub Inspector of Police informed the above incident to the deceased father and obtained his statement in which it is stated that his son Murugan @ Kanmooi Murugan who is went to jail for theft and assault cases. The deceased informed to his mother that there dispute regarding selling of ganja between the deceased and A1, hence, he went to meet A1. On 08.03.2023 at about 12.00 hours, the accused A1 to A5 and others came to the defacto complainant's house in auto and called the deceased and the deceased went along with them. Around 02.00 hours, the defacto complainant received information through the respondent Police about the deceased died at the above said place. Due to previous enmity, the accused persons were murdered the deceased. On the complaint, a case registered in Crime No.82 of 2023 for offence under Sections 147, 148 and 302 IPC on 08.03.2023 against the accused persons. Thereafter, the respondent Police arrested the



accused persons A1 and A9 on 10.01.2023 and 14.03.2023 respectively and obtained their confession statements and also seized Pulsar bike bearing Reg.No.TN-18-AE-3420, Vivo Cell phone-1, knife-1 from A1 under seizure mahazar in presence of witnesses and the same were produced before the learned Judicial Magistrate No.II, Alandur. After detailed investigation on 16.10.2023, the respondent Police altered Sections of this case under Section 147, 148, 302, 506(ii) & 149 of IPC and filed charge sheet before the learned Judicial Magistrate No.II, Alandur and the same was taken on file as P.R.C.No.44 of 2023, dated 02.03.2023. Thereafter, the case was committed to the file of the Additional District & Sessions Court, Chengalpet and assigned S.C.No.145 of 2023. Hence, he prays for dismissal.

4.Considering the submissions and on perusal of the materials, it is not in dispute that the petitioner is the owner of Pulsar 220 DTSI bearing registration No.TN-18-AE-3420 and she is not an accused. In this case, on completion of investigation, charge sheet filed before the lower Court and assigned S.C.No.145 of 2023 on 09.06.2023.



5.It is seen that from the date of recovery, the vehicle is kept in open yard 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.In view of the above, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Pulsar 220 DTSI bearing registration No.TN-18-AE-3420 to the petitioner with the following conditions:

(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 Additional District & Sessions Judge, Chengalpet. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(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



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Indian Evidence Act, 1872.

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(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned Additional District & Sessions Judge, Chengalpet.

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

7.In view of the above, the impugned order, dated 06.01.2024 in Crl.M.P.No.5767 of 2023 passed by the learned Additional District & Sessions Judge, Chengalpet is set aside and the revision is, accordingly, allowed.

25.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Internet: Yes/No

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To

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- 1.The Additional District & Sessions Judge,
Chengalpet.
- 2.The Inspector of Police,
Thuraipakkam Police Station,
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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