



Crl.R.C.No.267 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.267 of 2024

Arun Kumar

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
F-2 Egmore Police Station.
Crime No.325 of 2023

... Respondents

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 06.11.2023 made in Crl.M.P.No.47946 of 2023 in Crime No.325 of 2023 passed by the learned XIV Metropolitan Magistrate, Egmore, Chennai and to order return of the petitioner's vehicle Honda Dio bearing registration No.TN-03-AH-6028.

For Petitioner : Mr.Suresh Arockianathan

For Respondent : Mr.R.Kishore Kumar
Government Advocate (Crl. Side)



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ORDER

The petitioner/accused in Crime No.325 of 2023 for the offence under Section 379 IPC registered on 06.08.2023 was arrested by the respondent police on 11.08.2023. The petitioner's vehicle Honda Dio bearing registration No.TN-03-AH-6028 was seized by the respondent police, for which, the petitioner filed a petition seeking return of property in Crl.M.P.No.47946 of 2023 before the learned XIV Metropolitan Magistrate, Egmore, Chennai. The Trial Court by order dated 06.11.2023 dismissed the same. Against which, the present revision petition is filed.

2.The contention of the learned counsel for the petitioner is that the petitioner had been falsely implicated and arrested in this case for the purpose of statistics. He would submit that the petitioner is earning daily wages and he purchased the motor bike recently by availing vehicle loan from L&T Finance. His nature of employment is to travel long distance to attend his work and to make earnings. He further submitted that in the complaint, neither the petitioner's name nor his bike particulars were



provided. The respondent police merely on suspicion arrested the petitioner and seized the vehicle. Hence, the petitioner filed a petition seeking return of property before the Lower Court in Crl.M.P.No.47946 of 2023, but the same was dismissed. He would further submit 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. He further submitted that due to detention of vehicle, he is unable to continue his routine work and greatly impaired. Further, the petitioner is also forced to pay monthly EMI, otherwise the vehicle would be seized by the Financier. Hence, he prays for return of property.

3.The Government Advocate (Crl. Side) appearing for the respondent filed a counter and submitted that a complaint was lodged by the defacto complainant stating that on 06.08.2023 she went to participate Marathon at Kamarajar Salai, at that time, one unknown person came there in a two wheeler and snatched her cell phone. Based on the complaint, a case was registered in Crime No.325 of 2023 for the offence under Section 379 IPC. During the course of investigation, the petitioner/accused was arrested on



11.08.2023, confession statement recorded and the respondent police seized one cell phone and a bike bearing registration No.TN-03-AH-6028 and thereafter, the petitioner was produced before the concerned Magistrate and remanded to judicial custody. He would submit that the petitioner was also involved in two other cases. He further submitted that if the petitioner's vehicle is returned, he would commit offence similar in nature again. Hence, strongly objected the present revision.

4.Considering the submissions made and on perusal of the materials available on record, it is seen that the earlier cases referred against the petitioner is of the year 2018 and 2019 and thereafter, no other cases registered against the petitioner. It is further seen that the bike was purchased by the petitioner with the financial assistance and he used the vehicle for his avocation. It is also 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.

5.In view of the aforesaid reasons, this court is constrained to set aside the order passed by the learned XIV Metropolitan Magistrate, Egmore, Chennai in Crl.M.P.No.47946 of 2023, dated 06.11.2023 and the criminal revision case is allowed.

6.The learned XIV Metropolitan Magistrate, Egmore, Chennai is directed to return the vehicle Honda Dio bearing registration No.TN-03-AH-6028 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):

(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 XIV Metropolitan Magistrate, Egmore, Chennai. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;



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(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 Indian Evidence Act, 1872.

(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned XIV Metropolitan Magistrate, Egmore, Chennai.

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

05.03.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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To

- 1.The Inspector of Police,
F-2 Egmore Police Station.
- 2.The XIV Metropolitan Magistrate,
Egmore, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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