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Crl.R.C.No.527 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 29.07.2024

CORAM :

THE HONOURABLE MR. JUSTICE M. DHANDAPANI

Crl.R.C.No.527 of 2024

Venkatesan

... Petitioner

Vs.

The Inspector of Police,
Mangalam Police Station,
Mangalam,
Thiruvannamalai District.
Crime No.142 of 2023

... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, praying to call for the records in C.M.P.No.6050 of 2023 dated 13.09.2023 on the file of the Judicial Magistrate No.II at Tiruvannamalai and set aside the same.

For Petitioner : Mr.B.Jawahar

For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

This Criminal Revision Case is filed aggrieved by the order of the learned Judicial Magistrate No.II, Tiruvannamalai in C.M.P.No.6050 of



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2023, dated 13.09.2023, in and by which, the prayer of the petitioner for interim custody of the case property, namely **Hero Splendor Plus two-wheeler** is rejected by the learned Magistrate.

2. The case of the prosecution is that, he is the owner of the vehicle Hero Splendor Plus bearing Regn.No.TN-16-X-1903, filed a petition in Crl.M.P.No.6050 of 2023 u/s 457 of Cr.P.C., seeking interim custody of the vehicle, which was seized in connection with Crime No.142 of 2023 for the alleged offences punishable u/s 4(1)(a) r/w 4(1A)ii Tamil Nadu Prohibition Act. However, the said petition was dismissed by the Judicial Magistrate No.II, Tiruvannamalai on 13.09.2023. Challenging the same, the present revision has been filed by the petitioner.

3. Learned counsel appearing for the petitioner submitted that the petitioner is the owner of the vehicle and one Anand has borrowed his vehicle in order to go to College. He further submitted that he is not involved in any offence and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.



4. Per contra, learned Government Advocate (Crl.Side) appearing for the respondent submitted that, the vehicle was used for commission of alleged offence and if the vehicle is ordered to be returned, the vehicle may be used for committing the similar offence. Accordingly, he prayed for dismissal of the petition.

5. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent police and perused the materials available on record.

6. It is not in dispute that the petitioner is the owner of the vehicle, namely, Hero Splendor Plus bearing registration No.TN 16 X 1903. It is seen from the records that from 16.05.2023, the vehicle is kept in open yard of the Police Station, exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished day by day.

7. In this regard, it is relevant to refer a decision of the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***AIR 2003 SC 638***, wherein, the relevant portion is extracted hereunder :-



Vehicles

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

8. In the light of the above decision and considering the facts and circumstances of the case and also the fact that the petitioner is not an accused in this case, this court is of the view that the petitioner is entitled to return of the vehicle. Accordingly, the impugned order passed by the learned Judicial Magistrate No.II, Tiruvannamalai in Crl.M.P.No.6050 of 2023, dated 13.09.2023 is set aside and the learned Magistrate is directed to return the vehicle to the owner of the vehicle on the following conditions:



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(i) The petitioner shall execute a bond for a sum of Rs.15,000/- (Rupees Fifteen Thousand Only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.II, Tiruvannamalai ;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

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

(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent police and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

9. With the above conditions, the Criminal Revision Case is allowed.

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Index : Yes / No

Speaking order / Non-speaking order

NCC : Yes / No

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M.DHANDAPANI, J.

sp

To

- 1.The Judicial Magistrate No.II,
Tiruvannamalai.
- 2.The Inspector of Police,
Mangalam Police Station,
Mangalam,
Thiruvannamalai District.
- 3.The Public Prosecutor,
High Court of Madras.

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