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CRL.R.C.No.489 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

CRL.R.C.No.489 of 2024

Subramani

... Petitioner

Vs.

The State,
Represented by its
Forest Range Officer,
Maduranthagam Division at Achirapakkam,
Chengalpet District.
WLOR.No.1 of 2024

... Respondent

PRAYER : Criminal Revision Petition filed under Sections 397 and 401 Cr.P.C, to set aside the order passed in C.M.P.No.37 of 2024 in WLOR.No.1 of 2024 dated 22.01.2024 on the file of the learned Judicial Magistrate No.1, Maduranthagam, Chengalpet District and direct the learned Judicial Magistrate No.I, Maduranthagam, Chengalpet District to return the vehicle, namely, Motor Cycle Honda Shine bearing Registration No.TN-19-U-5701 to the petitioner within stipulated time may be fixed.



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For Petitioner : Mr.M.Senthil Kumar
For Respondent : Mr.A.Gopinath
Government Advocate (Crl.Side)

ORDER

The criminal revision is filed, challenging the order, dated 22.01.2024 passed in C.M.P.No.37 of 2024 in WLOR.No.1 of 2024 by the learned Judicial Magistrate No.1, Maduranthagam, Chengalpet District.

2. The revision petitioner filed a petition in C.M.P.No.37 of 2024 under Sections 451 and 457 of Cr.P.C., seeking interim custody of the vehicle viz., Motor Cycle HONDA SHINE bearing Registration No.TN-19-U-5701. The said petition was dismissed by the learned Judicial Magistrate No.1, Maduranthagam, Chengalpet District on 22.01.2024. Aggrieved over the said order, the criminal revision is preferred by the revision petitioner.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the vehicle viz., Motor Cycle HONDA SHINE



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bearing Registration No.TN-19-U-5701 and the said vehicle was seized by the respondent Police relating to the case in WLOR No.1 of 2024 for the alleged offence punishable under Sections 9, 39, 50, 51, 52 and 57 of Wild Life Protection Act, 1972. The said vehicle is kept in the custody of Police in open space in the Police Station. If the vehicle is kept in an open space, the value of the same will diminish over the period of time. Therefore, he prayed for return of the vehicle.

4. Mr.A.Gopinath, learned Government Advocate (Crl.Side) appearing for the respondent did not raise any serious objection to return the vehicle to the present petitioner.

5. At this juncture, it is relevant to refer a decision of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002***, wherein, the relevant portion is extracted hereunder.



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“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



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vehicle should be taken and detailed panchanama should be prepared.”

6. Considering the fact that keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time and considering the dictum laid down by the Hon'ble Supreme Court, this Court is inclined to allow the revision petition.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order in C.M.P.No.37 of 2024 dated 22.01.2024 passed by the learned Judicial Magistrate No.1, Maduranthagam, Chengalpet District, is set aside and the vehicle shall be returned to the petitioner on the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) before the trial Court.
- iii. the Court may prepare a panchanama in Judicial Form No.82



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with regard to the vehicle bearing Registration No.TN-19-U-5701 and such panchanama can be used in evidence.

- iv. the petitioner shall take photograph of the vehicle bearing Registration No.TN-19-U-5701 and certify the same under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
 - v. the petitioner shall not alienate or encumber the vehicle in any manner;
 - vi. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.
 - vii. the petitioner shall also produce the vehicle as and when required before the Court below and before the respondent Police.
 - viii. the petitioner shall participate in the confiscation proceedings and shall produce the vehicle before the confiscation authority.
- This order is subjected to the confiscation proceedings;



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ix. the petitioner shall not indulge in the similar offence and if the petitioner is found to be involved in any of similar offence in future, this order of returning the present vehicle viz., Motor Cycle HONDA SHINE bearing Registration No.TN-19-U-5701 shall stand automatically vacated, and this vehicle will be again seized by the respondent / Police and produced before the Court concerned.

26.07.2024

NCC : Yes / No

Index : Yes / No

Speaking Order : Yes / No

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Note: Issue order copy by 08.08.2024.



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To

1. The learned Judicial Magistrate No.1, Maduranthagam,
Chengalpet District.
2. The Forest Range Officer,
Maduranthagam Division at Achirapakkam,
Chengalpet District.
3. The Public Prosecutor,
Madras High Court.



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M.DHANDAPANI, J.

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