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Crl.R.C.No.834 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.05.2024

CORAM:

THE HONOURABLE MR.JUSTICE R.SAKTHIVEL

Crl.R.C.No.834 of 2024

B.Santhi

... Petitioner

VS

State Represented by
Inspector of Police,
MALLUR Police Station,
Salem.
(Crime No.315 of 2023)

... Respondent

Prayer: Criminal Revision Petition is filed under Section 397 r/w 401 of Criminal Procedure Code, praying to set aside the order dated 12.12.2023 made in Crl.M.P.No.1734 of 2023 on the file of learned Judicial Magistrate No.VI, Salem.

For Petitioner : Mr.J.Jayan

For Respondent : Mr.S.Udayakumar
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Petition has been filed against the dismissal of the petition in Crl.M.P.No.1734 of 2023 on the file of the learned Judicial Magistrate, No.VI, Salem seeking for return of property.

2. Learned counsel appearing for the petitioner has submitted that the petitioner is the owner of motor bike bearing Registration No. TN-90-H-1777 (Royal Enfield Classic 350 Motorcycle). The respondent-Police registered a case in Crime No.315 of 2023 against one Jayakumar on 26.10.2023 for the offence under Sections 302, 147, 148, 341, 294(b) and 120B of IPC and seized the vehicle of the petitioner. The vehicle has been produced before the learned Judicial Magistrate No.6, Salem and the same was remanded by the learned Judicial Magistrate No.6, Salem in C.P.No.123 of 2023. Learned counsel for the petitioner has submitted that if the vehicle is parked in the open area, it will get deteriorated and thereby the value of the vehicle diminishes day by day. Further submitted that the aforementioned vehicle of the petitioner seized by the respondent-police is in no way connected with the



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said offence. Further submitted that, the petitioner had filed Crl.M.P.No.1734 of 2023 seeking return of property and the learned Judicial Magistrate dismissed the petition stating that if the vehicle is returned to the petitioner, it would affect the investigation.

3. The learned counsel for the petitioner has further submitted that the petitioner is leads to give an undertaking that she will not dispose or alter the vehicle and would abide any stringent conditions that may be imposed on her and that the petitioner is prepared to produce the vehicle before the authorities or before the Court as and when required by them either for the purpose of investigation or trial and she is also prepared to produce the original RC book before the concerned Court. Further submitted that, there is no other case against the petitioner and thereby prayed to set aside the impugned order and direct the release of the vehicle.

4. Mr.S.Udayakumar, learned Government Advocate (Crl.Side) appearing for the respondent has submitted that the investigation is not yet completed and the above property of vehicle is involved in the offence under



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Sections 120B, 147, 148, 341, 294(b) & 302 I.P.C. He further submitted that if the vehicle is returned to the petitioner, she will alter the vehicle and it would affect the prosecution's case. Hence, he prayed to dismiss this revision petition.

5. The offence alleged occurred on 26.10.2023. The property has been already remanded in C.P.No.123 of 2023. If the motorcycle is kept idle either in police station or in Court, it would be exposed to sun and rain and the value of the vehicle would diminish. The Hon'ble Supreme Court of India in ***Sundarbai Ambalal Desai vs State of Gujarat*** reported in ***AIR 2003 SC 638*** held as follows :

"In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police station for a long period. It is for the Magistrate to pass appropriate property orders immediately by taking appropriate bond and guarantee as well as security for return of the vehicles, if required at any point of time."



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Taking into consideration of the facts and submissions and in view of the Apex Court Judgement, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

6. In view of the above, the order dated 12.12.2023 made in Crl.M.P.No.1734 of 2023 stands set aside and the Criminal Revision Petition stands allowed and the interim custody of the vehicle shall be given to the petitioner subject to the following conditions:-

- a) The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties each for a like sum to the satisfaction of the Judicial Magistrate No.VI, Salem.
- b) The petitioner shall produce the Original RC book of the vehicle in question before the Judicial Magistrate Court No.VI, Salem and file an affidavit of undertaking that she will not dispose or alter physical features of the vehicle and that she will produce the vehicle before the trial Court as when required by the trial Court or the Investigating Agency.



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- d) The motorcycle shall be photographed in all angles and the same shall be kept in the case file along with its soft copies in a compact disc with certificate u/s.65B of Evidence Act, 1872.

15.05.2024

Index : Yes / No
Speaking order : Yes / No
Neutral Citation : Yes / No
dm

Note:-

- 1. Registry is directed to forthwith upload this order in the official website of this Court.**
- 2. All concerned to act on this order being uploaded in official website of this Court without insisting on certified hard copies. To be noted, this order when uploaded in official website of this Court will be watermarked and will also have a QR code.**



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- To
- 1.The Judicial Magistrate No.VI,
Salem.
 - 2.The Inspector of Police,
MALLUR Police Station,
Salem.



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R.SAKTHIVEL, J.

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