



WEB COPY



Crl.R.C.No. 1542 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2024

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No. 1542 of 2024

D.Munusamy

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
Olakkur Police Station,
Olakkur.

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 of Cr.P.C. r/w. 438 of BNSS to set aside the order dated 21.12.2023 passed in Crl. MP No.5522 of 2023, on the file of the learned Judicial Magistrate-1, Tindivanam and allow this revision.

For Petitioner : Mr.G.Balasubramanian

For Respondents : Mr.A.Damodaran

Addl. Public Prosecutor



Crl.R.C.No. 1542 of 2024

ORDER

WEB COPY

The petitioner / accused in Crime No.421 of 2023 for offences under Section 4(1)(a), 4(1-A) 14A of TNP Act filed a return of property petition under Section 451 & 457 of Cr.P.C in Crl.M.P.No.5522 of 2023. The Trial Court dismissed the petition by order dated 21.12.2023, against which, the present petition.

2. The petitioner is a first graduate from his family and completed his law. The petitioner, being active in village used to question the Police for their high handness, for which, the petitioner targeted and a false case registered against him. Earlier, three cases registered against the petitioner. The petitioner with great difficulty had purchased the bike and he has been using the bike for his education and carrier development. The petitioner purchased the bike by availing finance from Sri Ram Finance and paying monthly installments. After seizure of the vehicle, the vehicle is kept in open yard exposing to vagaries of weather and value of the vehicle getting diminished. The petitioner is forced to pay the EMI otherwise, the Financier would seize the vehicle. Hence, he filed the above petition.



WEB COPY

3. The learned Public Prosecutor opposed the contention of the petitioner, submitted petitioner taking advantage of the proximity of Pondicherry, petitioner used his bike to smuggle liquor and in this case, he has smuggled arrack, earlier, three cases registered. First case is of the year 2021 and second case is of the year 2023. The petitioner is a regular offender. On 15.12.2023, the respondent Police were on patrol duty, at that time, on seeing the respondent Police, the petitioner attempted to flee from the place, petitioner was stopped and when the bike was searched, the respondent Police found 12 litres of arrack in a plastic container. After taking samples, the arrack was destroyed, the vehicle was seized and the accused was arrested and produced before the Magistrate. Now the respondent Police are contemplating to initiate confiscation proceedings. The petitioner is a regular offender hence, objected to the present petition.

4. Considering the submission, it is seen that the 1st petitioner with a great difficulty had completed degree, he is a first graduate in the family and availed finance from Sri Ram Finance for purchasing the bike. In this case, so far, confiscation proceedings yet to commence. 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.

5. 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., Splender + bearing registration No.TN-16-J-4325 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 Judicial Magistrate-I, Tindivanam. 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 Indian Evidence Act, 1872.



Crl.R.C.No. 1542 of 2024

WEB COPY (iv) The petitioner shall submit a self attested photostat copy of R.C.Book before the learned Judicial Magistrate - I, Tindivanam.

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

6. In view of the above, the impugned order, dated 21.12.2023 in Crl.M.P.No.5522 of 2023 passed by the learned Judicial Magistrate - I, Tindivanam is set aside and the revision is, accordingly, allowed.

04.10.2024

kkn

Internet: Yes / No
Speaking / Non-speaking order
Neutral Citation : Yes / No

To

1. The Judicial Magistrate – 1,
Tindivanam.
2. The Inspector of Police,
Olakkur Police Station,
Olakkur.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No. 1542 of 2024

M.NIRMAL KUMAR, J.

KKN

Crl.R.C.No. 1542 of 2024

04.10.2024