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Crl.R.C.No.1459 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.09.2024

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1459 of 2024

P. Nirmal

... Petitioner

Vs.

State Represented by
Inspector of Police (Crime)
K-6, T.P.Chathiram Police Station,
Chennai.
(Crime No.48 of 2022)

... Respondent

PRAYER: Criminal Revision Case has been filed under Section 438 r/w 442 of BNSS, praying to set aside the order passed in Crl.M.P.No.42206 of 2024 dated 26.07.2024 on the file of the learned V Metropolitan Magistrate Court, Egmore, Chennai.

For Petitioner	: Mr.S.Shankar
For Respondent	: Mr.A.Damodaran
	Additional Public Prosecutor



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ORDER

The petitioner had lodged a complaint to the respondent police on 02.03.2022 complaining that his two wheeler bearing registration No. TN-03- R-5734, Honda Dio, Blue Color was missing. On the basis of such complaint, the respondent police registered a case in Cr.No.48/2022 for the offence under Section 379 of IPC. Thereafter, the petitioner came to know that the motor cycle was seized by the respondent police on 17.02.2022 and hence, he filed a petition for return of property before the lower Court in CrI.MP.No.42206 of 2024. The Trial Court dismissed the same by order dated 26.07.2024 for the reason that the two wheeler recovered stands in the name of one Pandurangan and not in the petitioner's name. Aggrieved against the same the present Criminal Revision Case has been filed.

2. The learned counsel for the petitioner submitted that it is not in dispute that the petitioner used the above vehicle bearing Registration



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No.TN 03 R 5734. The petitioner was employed in Piramal Housing Finance Company, situated at No. 2/75, the Blue Lace Brocade, New Avadi Road, Chennai having office in the first floor. On 17.02.2022, he parked his vehicle in the ground floor and attend the office. After 1.30 pm, when he came for lunch, he noticed that the two wheeler missing. He enquired with the watchman and thereafter, he lodged a complaint before the respondent police. Based on his complaint, the respondent registered FIR on 02.03.2022 and took up investigation. During investigation, the vehicle was found abandoned in the Government quarters and the respondent police seized vehicle in the presence of the witnesses and the vehicle is now parked in the respondent police station. He further submitted that the vehicle stands in the name of petitioner's father Pandurangan. The petitioner along with his mother and brother are legal heirs. The legal heirs have also given an affidavit that they have no objection in handing over the vehicle to the petitioner. The Trial Court without considering the same has



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erroneously dismissed the petition for return of property and prayed for allowing the revision.

3. The learned Additional Public Prosecutor submitted that the petitioner lodged a complaint that his bike has been stolen based on which and the case Cr.No.48/2022 for the offence under section 379 of IPC was registered. Later, the vehicle was found abandoned in Government Quarters and on receipt of such information the Sub - Inspector of Police along with police team went to the said place and seized the vehicle in the presence of one Sekar and one Sivakumar. In this case so far no one stated any claim towards the vehicle. Further on verification of the RC book , Death Certificate and legal heir certificate, he confirmed that the vehicle stands in the name of petitioner's father.



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4. Considering the submissions and on perusal of the materials, it is not in dispute that the petitioner is the owner of Honda Dio bearing registration No.TN 03 R 5734 and he is not an accused. 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 cases relating to 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., Honda Dio bearing registration No.TN-03-R-5734 to the petitioner with the following conditions:



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(i) The petitioner shall execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with one surety, for a like sum to the satisfaction of the learned V Metropolitan Magistrate Court, Egmore, Chennai. 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.

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

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



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6. In view of the above, the impugned order, dated 26.07.2024 in Crl.M.P.No.42206 of 2024 passed by the learned V Metropolitan Magistrate Court, Egmore, Chennai. is set aside and the revision is, accordingly, allowed.

04.09.2024

Index : Yes/No

Speaking order / Non-speaking order

Neutral citation : Yes/No

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To

1. The learned V Metropolitan Magistrate Court,
Egmore, Chennai.
2. The Inspector of Police (Crime)
K-6, T.P.Chathiram Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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