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Crl.R.C.No.2283 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2283 of 2024

Ranjithkumar

... Petitioner

Vs.

1.State, rep. by
The Sub – Inspector of Police,
Prohibition Enforcement Wing-Perambalur,
Perambalur District.
(Crime No.114/2023).

2.Dinesh @ Dineshkumar

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, to allow the Criminal Revision Petition and set aside the order dated 20.02.2024 passed in Crl.M.P.No.7851 of 2023 by the learned Judicial Magistrate No.I, Perambalur.

For Petitioner : Mr.M.Vijaya Ragavan

For R1 : Mr.S.Udaya Kumar,
Government Advocate (Crl. Side)



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ORDER

This Criminal Revision Case has been filed challenging the impugned order, dated 20.02.2024 in C.M.P.No.7851 of 2023 passed by the learned Judicial Magistrate No.I, Perambalur dismissing the petitioner's petition filed under Sections 451 and 457 of Cr.P.C for return of two wheeler viz., Hero Splender Plus Drum bearing Reg.No.TN-46-R-7422.

2.The petitioner is the owner of the vehicle which is said to have been used by the 2nd respondent for commission of offence under Section 4(1)(a) of Tamil Nadu Prohibition Act in Crime No.114 of 2023. It is alleged that the 2nd respondent was in possession of 48 bottles of Brandy (180 ml each) and intended to sell the same in the open market illegally. The vehicle was seized during the course of investigation on 19.02.2023. The petitioner had sought for return of the vehicle stating that ever since the date of seizure i.e., on 19.02.2023, the vehicle is kept idle in an open place and exposed to sun and rain. The learned Magistrate dismissed the said petition on the ground that the petitioner had knowingly given his vehicle to the 2nd



respondent and there is nothing on record to show that the petitioner had given a complaint against the 2nd respondent for taking the vehicle from his possession illegally; and that the vehicle is liable for confiscation.

3.The learned counsel for the petitioner would submit that though the seizure was made on 19.02.2023, the confiscation proceedings is yet to be initiated; that the 2nd respondent is the friend of the petitioner and the petitioner is admittedly not an accused in this case; that the interim custody of the vehicle may be handed over to the petitioner since from the date of seizure, the vehicle is kept in open space exposed to the vagaries of weather, that further retention of vehicles at the Police Station would make the vehicle unusable, and it would become a scrap; and that the petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle.

4.The learned Government Advocate (Crl. Side) on instructions would submit that the petitioner is not an accused; that no confiscation proceedings have been initiated so far; and that there is no previous case



against the petitioner.

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5. In the light of the above submissions, this Court is of the view that the vehicle cannot be allowed to be kept idle in the Police Station subject to the vagaries of weather as held by the Hon'ble Supreme Court. Since the petitioner is admittedly an owner of the vehicle, not an accused, the interim custody of the vehicle can be handed over to the petitioner subject to the stringent conditions.

6. Accordingly, the impugned order, dated 20.02.2024 in C.M.P.No.7851 of 2024 passed by the learned Judicial Magistrate No.I, Perambalur is set aside. The learned Judicial Magistrate No.I, Perambalur is directed to return the two wheeler viz., Hero Splender Plus Drum bearing Reg.No.TN-46-R-7422 to the petitioner on the following conditions:

(i) The petitioner shall execute a bond for sum of Rs.30,000/- (Rupees Thirty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Perambalur;

(ii) The petitioner shall produce the original RC Book along with self



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attested photostat copy of RC Book of the vehicle and other relevant records to prove her ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;

(iii)The petitioner shall not alter or alienate the vehicle in any manner;

(iv)The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the respondent Police and by the Court below.

7.In the result, this criminal revision case stands allowed. It is made clear that the above return of vehicle is subject to the outcome of the confiscation proceedings if any initiated.

13.12.2024

Index:Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation: Yes/No

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SUNDER MOHAN, J.

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To

- 1.The Judicial Magistrate No.I,
Perambalur.
- 2.The Sub Inspector of Police,
Prohibition Enforcement Wing-Perambalur,
Perambalur District.
- 3.The Public Prosecutor,
Madras High Court.

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