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Crl.R.C.No.2237 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 9/12/2024

C O R A M

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2237 of 2024

Deepan

...

Petitioner

Vs

The State

rep. By The Inspector of Police

Perambur Police Station

Mayiladuthurai District.

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 and 442 of BNSS, to set aside the order passed in C.M.P.No.1690 of 2024 dated 24/6/2024 on the file of the District Munsif-cum-Judicial Magistrate, Tharangambadi and return of the vehicle Two wheeler – Bajaj Pulsar 220 DTS bearing Registration No.TN-61-Y-9960.

For Petitioner : Ms.A.V.Bharathi

For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (crl.side)



ORDER

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This revision challenges the dismissal of the petitioner's application for return of vehicle bearing Registration No.TN-61-Y-9960.

2. The petitioner is the owner of the vehicle which is said to be involved in the offence under Section 4 (1) (aaa) of the Tamil Nadu Prohibition Act for possession of 110 litres of illicit liquor from the Union Territory of Pondicherry. During investigation, petitioner's vehicle was seized. The petitioner therefore, sought for return of vehicle and the learned District Munsif-cum-Judicial Magistrate, Tharangambadi dismissed the same by order dated 24th June, 2024, on the ground that it is likely to be confiscated.

3. The learned counsel appearing for the petitioner would submit that ever since the date of seizure, on 25/5/2024, the vehicle is kept idle in open space exposed to the vagaries of weather, further retention of vehicles at the police station would make the vehicles unusable, and it would become a scrap. He further submitted that no confiscation proceedings have been initiated by the respondent so far.

4. The learned Government Advocate (Crl.side), per contra, submitted



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that confiscation proceedings are yet to be initiated and therefore opposed the prayer sought for by the petitioner.

5. Heard the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) appearing for the respondent and perused the records.

6. Admittedly, the petitioner is the owner of the two-wheeler bearing Regn.No.TN-61-Y-9960. The said vehicle was seized during the investigation and produced before the learned Magistrate. The respondent have not initiated the confiscation proceedings. Pursuant to the seizure, the vehicle is kept idle in the police station is indulged to the vagaries of the weather. The Hon'ble Supreme Court and this Court have repeatedly held that the vehicles cannot be allowed to be kept in an open place and subjected to vagaries of the weather and that the property can be returned to the proper persons entitled custody on stringent conditions, pending disposal of the trial. In the above said circumstances, this Court is inclined to return the vehicle to the petitioner.



7. Accordingly, this **Criminal Revision Case is allowed** and the impugned order dated 25/6/2024 passed by the learned District Munsif-cum-Judicial Magistrate, Tharangambadi in C.M.P.No.1690 of 2024 is set aside. In view of the same, the respondent is directed to return the two-wheeler to the petitioner on the following conditions -

(i) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties for a likesum to the satisfaction of the learned Magistrate-cum-Judicial Magistrate, Tarangambadi;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned learned Magistrate-cum-Judicial Magistrate, Tarangambadi; shall peruse the RC book and other records, retain a 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



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respondent and by the court below.

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(v) The return of property would be subject to the result of the confiscation proceedings, if any.

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

mvs.

To

1. The District Munsif-cum-Judicial Magistrate, Tharangambadi
2. The Inspector of Police
Perambur Police Station
Mayiladuthurai District.
3. The Public Prosecutor,
High Court, Madras.

SUNDER MOHAN, J

mvs.



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