



Crl.R.C.(MD)No.323 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 25.03.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.(MD)No.323 of 2024

Kalirasu

... Petitioner

Vs.

The State, rep. by its,
The Sub Inspector of Police,
Chokkampattai Police Station,
Tenkasi District.

Crime No.47 of 2024

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the entire records pertaining to the order refusal of return of vehicle passed in Crl.M.P.No.211 of



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2024 dated 13.03.2024 on the file of the learned Judicial Magistrate Tenkasi, in connection with Crime No.47 of 2024 on the file of the respondent police and set aside the same and directed to release the petitioner's two wheeler vehicle bearing Registration No.TN 79 J 3022.

For Petitioner : Mr.S.Vishnuvardhan

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

Challenging the dismissal order passed by the learned Judicial Magistrate, Tenkasi, in Crl.M.P.No.211 of 2024 dated 13.03.2024, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Bajaj 110 two wheeler bearing Registration No.TN 79 J 3022 by the respondent Police, in Crime No. 47 of 2024 for the alleged offences punishable under Section 4(1)(a) of Tamil Nadu Prohibition Act.



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2. The case of the prosecution is that on 28.02.2024 at 22.15 hours the respondent police while in their regular patrol duty, they have intercepted the petitioner's two wheeler bearing Registration No.TN 79 J 3022 and found illegal possession of 40 numbers of 180 M.L. liquor bottles. Therefore, the vehicle was seized and a case was registered in Crime No.47 of 2024. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the above said vehicle. The learned Judicial Magistrate, Tenkasi, vide order, dated 13.03.2024, dismissed the said petition. Aggrieved over the said order, the present Criminal Revision Case is filed.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is the owner of the said vehicle and since the above said vehicle was used for committing the crime and found illegal possession of 40 numbers of 180 M.L. liquor bottles, it was seized and the case property was kept in the respondent office and hence, he objected to return the vehicle to him and hence, prayed for dismissal of the Criminal Revision Petition.



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4. Heard, Mr.J.Sivakumar, learned counsel for the revision petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

5. The learned counsel for the petitioner submitted that the present petitioner has not involved in any of the offence as alleged by the prosecution and that if the vehicle is kept in open space in the respondent office, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.

6. Per contra, the learned Additional Public Prosecutor contended that the vehicle was used for illegal transportation of 40 numbers of 180 ML liquor bottles and if the vehicle is ordered to be returned, he may use the vehicle for committing the similar offence. Hence, he sought for dismissal of the petition.



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7. It is relevant to refer a decision of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***AIR 2003 SC 638***, wherein, the relevant portion is extracted hereunder:-

Vehicles

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not



claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order, dated 13.03.2024 passed by the learned Judicial Magistrate, Tenkasi, is set aside. The learned Judicial Magistrate, Tenkasi, is directed to return the vehicle to the owner of the vehicle on the following conditions :

- i) the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii) the petitioner shall execute a personal bond



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for a sum of Rs.20,000/- (Rupees Twenty Thousand only) before the learned Judicial Magistrate, Tenkasi and the learned Magistrate shall not insist on production of solvency certificate.

iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the two wheeler – Bajaj 110 bearing Registration No.TN 79 J 3022 such panchanama can be used in evidence.

iv) the petitioner shall take photograph of the vehicle bearing registration No.TN 79 J 3022 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as a secondary evidence.

v) the petitioner shall not alienate or encumber the vehicle in any manner;

vi) the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;



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vii) the petitioner shall also produce the vehicle
as and when required before the court below and
before the respondent police.

25.03.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No

RM



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Copy to

1.The Judicial Magistrate,
Tenkasi.

To

- 1.The Sub Inspector of Police,
Chokkampattai Police Station,
Tenkasi District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

RM

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