



Crl.R.C.(MD)No.705 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 05.09.2024

Pronounced on : 13.09.2024

CORAM:

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.705 of 2024

Valarmathi

... Petitioner

Vs.

The State by
The Inspector of Police,
Koodal Pudur Police Station,
Madurai City.
(Crime No.191 of 2024)

... Respondent

Prayer : This Criminal Revision Petition filed under Sections 438 r/w 442 B.N.S.S., to set aside the order passed in Cr.M.P.No.1844 of 2024 dated 19.06.2024 by the learned Judicial Magistrate Court No.IV, Madurai, Madurai District and hand over the vehicle Mahindra Scorpio S10 Four Wheeler (COB White Colour) Chassis Number is MA1TA2SJXG2F10551 and the Engine Number is SJG4F20268 bearing Registration No.TN-55-AQ-1048 to the petitioner's interim custody.

For Petitioner : Mr.R.Balamuruganantham

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

The Criminal Revision is directed against the order passed in Cr.M.P.No.1844 of 2024 dated 19.06.2024 on the file of the Judicial Magistrate No.4, Madurai, dismissing the petition filed under Sections 451 and 457 of the Code of Criminal Procedure.

2. It is not in dispute that on the basis of the complaint lodged by one Kaleeswari, FIR came to be registered in Crime No.191 of 2024 against four unknown persons for the alleged offences under Sections 452, 392 and 397 IPC.

3. The case of the prosecution is that on 27.04.2024 at about 05.00 p.m., when the defacto complainant along with her mother were at their house, four unknown persons came to their house and snatched 3½ sovereigns of gold chain and mobile phones by using knife and threat.

4. It is also not in dispute that after registration of the FIR, one Nithya was arrested and upon her confession statement, other accused were secured and in pursuance of the confession alleged to have been



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given by the said accused Nithya, the respondent police has recovered vehicles including the vehicle Mahindra Scorpio S10 four wheeler bearing Registration No.TN-55-AQ-1048.

5. The petitioner claiming to be the owner of the said vehicle has filed a petition under Sections 451 and 457 Cr.P.C. seeking interim custody of the said vehicle before the Court of the Judicial Magistrate No. 4, Madurai and the learned Magistrate, after taking the petition on file in Cr.M.P.No.1844 of 2024 and after considering the objections raised by the prosecution, has passed the impugned order dated 19.06.2024 dismissing the petition. Aggrieved by the order of dismissal, the present revision came to be filed.

6. The case of the petitioner is that the petitioner is the owner of the vehicle as well as the relative of the co-accused, that one Saravanan has been falsely roped into the case and is no way connected with the alleged crime and to wreck vengeance against the said Saravanan, the petitioner's car has been roped in this case, that the petitioner is ready to co-operate with the investigation, that if the vehicle is kept in idle, the vehicle would



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expose to sun and rain and it will be damaged to natural decay and the same would also affect the performance of the vehicle and its value and that therefore the petitioner may be granted interim custody of the said vehicle.

7. The respondent has filed a counter affidavit stating that the confession given by the accused Nithya revealed that the vehicle bearing Registration No.TN-55-AQ-1048 was purchased by the accused Saravanan, that though the Registration Certificate stands in the name of the petitioner, the confession given by the accused Nithya would clearly establish that the vehicle was purchased and utilized by the accused Saravanan, that it has become just and necessary to implead the said Saravanan as one of the party and he has to be heard before handing over the custody to the petitioner and that therefore the impugned order passed by the learned Magistrate cannot be found fault with.

8. No doubt, the learned Magistrate, by observing that since the accused in this case has given a confession stating that the vehicle was purchased by the accused Saravanan and was being used by him, the said



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Saravanan has to be heard before ever passing property order, dismissed the petition by giving liberty to the petitioner to file a fresh petition impleading the accused Saravanan.

9. It is pertinent to note that as of now, the Registration Certificate and other records stand in the name of the petitioner herein. Even according to the petitioner, she purchased the said vehicle three months back from the date of filing of the petition and when the vehicle was in her custody, the same has been recovered by the respondent police.

10. Admittedly, the petitioner is not an accused in the case registered in Crime No.191 of 2024 on the file of the respondent police. In the counter affidavit, the respondent police has specifically stated that the petitioner or the vehicle does not have any bad antecedents.

11. In the impugned order, the learned Magistrate has referred the alleged confession given by the accused Nithya and the same is extracted hereunder:-

□என்னுடன் பழக்கத்தில் உள்ள சரவணனுக்கு
பணம் உதவி செய்து வந்தேன் கடந்த 3 மாதங்களுக்கு



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முன்பு அவருக்கு கார் தேவை என்று சொன்ன பொழுது
அவர் வாங்கிய இந்த TN 55 AQ 1048 என்ற வெள்ளை
கலர் ஸ்கார்பியோ காருக்கு நான் கடன் வாங்கி பணம்
கொடுத்தேன் என்று கூறப்பட்டுள்ளது□

12. Except the above confession alleged to have been given by the accused Nithya, the prosecution has neither furnished any other particulars nor gathered any other materials to show that the vehicle in dispute was owned and possessed by the accused Saravanan.

13. As rightly contended by the learned counsel appearing for the petitioner, the respondent police has not even taken any steps to verify or ascertain from the Regional Transport Office as to whether the accused Saravanan was owning the vehicle earlier. More importantly, the learned Magistrate in the impugned order has specifically observed that the prosecution in their objections has stated that the accused Saravanan remained absconding. Considering the above and in the absence of any iota of materials to show that the accused Saravanan was owning and possessing the vehicle in dispute, the impugned order mainly relying on the alleged confession, dismissing the petition seeking interim custody of the vehicle, cannot be sustained.



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14. As rightly contended by the learned counsel appearing for the petitioner, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody. Hence, this Court is inclined to grant interim custody to the petitioner, but at the same time, by imposing conditions.

15. Accordingly, this Criminal Revision Case is allowed and the order dated 19.06.2024 passed in Crl.M.P.No.1844 of 2024 by the learned Judicial Magistrate No.4, Madurai, is hereby set aside and the vehicle/ Mahindra Scorpio S10 four wheeler bearing Registration No.TN-55-AQ-1048, is ordered to be returned to the petitioner for interim custody on the following conditions:-

- (a) the petitioner shall execute a bond for a sum of **Rs.3,00,000/- (Rupees Three Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.4, Madurai;
- (b) the petitioner shall produce the solvency certificate issued by the jurisdictional Tahsildar;
- (c) the petitioner shall deposit the original Registration Certificate



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of the vehicle before the learned Judicial Magistrate No.4,
Madurai;

(d) the petitioner shall not alienate and shall not make any alteration
in the vehicle;

(e) the petitioner shall produce the vehicle once in a month before
the concerned Court;

16. However, in case, if the respondent police gets any material or
evidence to show that the vehicle in dispute is owned by the accused
Saravanan, they are at liberty to move this Court for recalling or
cancellation of the property order granting interim custody to the
petitioner.

13.09.2024

NCC :yes/No
Index :yes/No
Internet:yes/No
csm



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To

1. The Judicial Magistrate No.4,
Madurai.
- 2.The Inspector of Police,
Koodal Pudur Police Station,
Madurai City.



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K.MURALI SHANKAR,J.

csn

Pre-Delivery Order made in
Crl.R.C.(MD)No.705 of 2024

Dated : 13.09.2024