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Crl.R.C(MD)No.1090 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 22.11.2024

Pronounced on : 04.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1090 of 2024

Hariharan

... Petitioner

Vs.

The State of Tamil Nadu rep. by
The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.
(Crime No.254 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order, dated 10.10.2024 made in Cr.M.P.No.4000 of 2024 on the file of the District Munsif-cum-Judicial Magistrate, Thiruvidaimaruthur and set aside the order and direct the respondent herein to grant interim custody of the vehicle viz., Mahindra Bolero Bearing Registration No.TN-51-AC-7641, which has been seized by the respondent herein in Crime No.254 of 2024.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case is directed against the order, dated 10.10.2024, passed in Crl.M.P.No.4000 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur, dismissing the petition filed by the petitioner under Sections 451 and 457 of Cr.P.C. for return of Bolero bearing registration No.TN -51-AC-7641.

2.The brief facts of the case:

It is alleged that on 01.06.2024 at 22.00 hours the petitioner along with co-accused are said to have committed the offences under Sections 147, 148, 294(b), 353, 506 (2) of IPC and Section 4 of TN Prohibition of Harassment of Women Act, 2002, against the defacto complainant restraining him from doing government service and also they escaped by using the vehicle bearing registration number TN-51-AC-7641. A case was registered in Crime No.254 of 2024 by the respondent police and the vehicle was seized on 02.06.2024. The petitioner claims to be the owner of the vehicle and approached the District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur, by filing the petition in Crl.M.P.No.4000 of 2024 for return of the said vehicle and the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur has dismissed the petition vide his order, dated 10.10.2024.



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3. Aggrieved by the dismissal order, the petitioner has come forward with this present Criminal Revision Case.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent and perused the records in this Criminal Revision Petition.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the vehicle. His vehicle was not used in the alleged crime as stated by the respondent police and the vehicle was wrongly seized by the respondent police and remanded in RPR.No.130/2024 before the District Munsif-cum-Judicial Magistrate Court, Thiruvudaimaruthur. The seized vehicle is kept idle in open yard by the respondent police for the past five months from the date of seizure on 02.06.2024. If the vehicle is in open place, due to exposure of sun and rain, the value of vehicle will get deteriorated and therefore, the interim custody of the vehicle may be granted to the petitioner. The petitioner is ready to produce the property document.



6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that if the vehicle is granted interim custody the petitioner would go to other station and would alienate the vehicle.

7. On hearing both sides, it is clear that the vehicle was seized on 02.06.2024 and is kept in open place which was not disputed by the respondent police. The petitioner claims to be the owner of the vehicle, which is not also disputed by the respondent police. 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. The Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties by the police. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision by following the principle of law laid down by the Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175**.

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 10.10.2024 passed in Crl.M.P.No.4000 of 2024 on the file of



the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur, is hereby set aside. The Bolero vehicle bearing registration No.TN-51-AC-7641 is ordered to be returned to the petitioner on interim custody on the following conditions:

(i) The petitioner shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties for the like sum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur;

(ii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head Clerk of the learned District Munsif-cum-Judicial Magistrate Court, Thiruvudaimaruthur at the cost of the petitioner and the petitioner's signature to be obtained in the back side of the photographs and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iii) The petitioner shall deposit the original Registration Certificate of the vehicle before the learned District Munsif-cum-Judicial Magistrate, Thiruvudaimaruthur;

(iv) The petitioner shall not alienate and shall not alter the physical features of the vehicle till disposal of the case;



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(v) The petitioner shall produce the vehicle before the learned District Munsif-cum-Judicial Magistrate, Thiruvidadaimaruthur monthly once i.e., on first working day of every month and also before the Court and before the respondent police as and when required.

04.12.2024

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

To

- 1.The District Munsif-cum-Judicial Magistrate,
Thiruvidadaimaruthur.
- 2.The The Inspector of Police,
Pandhanallur Police Station,
Thanjavur District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1090 of 2024

04.12.2024