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Crl.R.C(MD)No.1241 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 29.11.2024

Pronounced on : 16.12.2024

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1241 of 2024

Muthuramalingam

... Petitioner

Vs.

State of Tamil Nadu rep. by
The Sub Inspector of Police,
Sathankulam Police Station,
Thoothukudi District.
(Crime No.128 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 passed in Crl.M.P.No.3620 of 2024 on the file of the Judicial Magistrate, Sathankulam, dated 09.07.2024 and set aside the same by allowing the revision petition.

For Petitioner : Mr.R.Ponkarthikeyan

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



ORDER

This Criminal Revision Case is directed against the order, dated 09.07.2024, passed in Crl.M.P.No.3620 of 2024 on the file of the learned Judicial Magistrate, Sathankulam, dismissing the petition filed by the petitioner U/s.503(i) of BNSS for return of two wheeler bearing registration No.TN 92 H 7589.

2.The brief facts of the case:

On 23.06.2024 at about 08.30 a.m., the respondent police while on patrol duty near CSI Church, Sathankulam, inspected the two wheeler bearing Registration No.TN-92-H-7589 and found illegal transport of 11 liquor bottles each containing 180 ML Black Pearl brandy without any valid license or permit and thereby, the vehicle was seized. A case was registered in Crime No.128 of 2024 U/s.4(1)(a), 14 A of the TNP Act. The petitioner claims to be the owner of the vehicle and approached the Judicial Magistrate Court, Sathankulam, by filing the petition in Crl.M.P.No.3620 of 2024 U/s.503(i) of BNSS and the learned Judicial Magistrate has dismissed the petition vide his order, dated 09.07.2024.

3. Aggrieved by the order of dismissal, 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 Case.

5. The learned counsel appearing for the revision petitioner has submitted that the petitioner is the owner of the vehicle. He was falsely implicated by the respondent police in this case and the vehicle was seized. The petitioner was using the vehicle for doing his job and for his domestic affairs. The petitioner has no nexus with the alleged occurrence. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure on 23.06.2024. If the vehicle is kept in open place, due to exposure of sun and rain, the value of the vehicle would get deteriorated and therefore, interim custody of the vehicle may be granted to the petitioner. In support of his argument, the learned counsel for the petitioner relied on order passed by this Court in Crl.R.C(MD)No.1300 of 2023, dated 28.02.2024.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner's vehicle was seized for illegal transport of liquor bottles and confiscation proceedings has not been initiated yet. If the vehicle is granted interim custody, the petitioner may alienate the vehicle.



7. On hearing both sides, it is clear that the vehicle was seized on 23.06.2024. The vehicle was seized 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.

8. 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. The learned Judicial Magistrate has dismissed the petition mainly on the ground that confiscation proceedings was pending. However, it is not in dispute that as of now confiscation proceedings has not been initiated and the confiscation order was not passed by the concerned authority. In the case of pendency of the confiscation proceeding, this Court has already passed the order of interim custody in Crl.R.C(MD)No.1300 of 2023, dated 28.02.2024. The petitioner has no previous case, which is also admitted by the respondent side. Considering the overall facts and circumstances of the case, this Court is inclined to allow this revision subject to conditions.

9. Accordingly, this Criminal Revision Case is allowed, and the order, dated 09.07.2024 passed in Crl.M.P.No.3620 of 2024 on the file of the learned



Judicial Magistrate, Sathankulam, is hereby set aside. The two wheeler/Honda Activa bearing registration No.TN-92-H-7589 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.50,000/- (Rupees Fifty Thousand only) with two sureties for the like sum to the satisfaction of the learned Judicial Magistrate, Sathankulam;

(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 Judicial Magistrate Court, Sathankulam 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 Judicial Magistrate, Sathankulam;

(iv) The petitioner shall not dispose or alienate or change the physical features of the vehicle till the disposal of the case or till disposal of the confiscation proceeding;

(v) The petitioner shall cooperate with the trial court for disposal of the case and also to complete the confiscation proceedings.



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9. The order passed in this revision will not be a bar to the authorities concerned to proceed with the confiscation proceedings. This order is subject to the outcome of the confiscation proceedings.

16.12.2024

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

To

- 1.The Judicial Magistrate, Sathankulam.
- 2.The Sub Inspector of Police,
Sathankulam Police Station,
Thoothukudi 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.1241 of 2024**

16.12.2024