



Crl.R.C.(MD)No.1017 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 03.01.2025

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1017 of 2024

Manikandan

... Petitioner

Vs.

The Inspector of Police,
Highways Police Station,
Theni,
Theni District.
(Crime No.5 of 2023)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order dated 21.02.2023 made in Cr.M.P.No.1278 of 2023 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District and set aside the same and direct the respondent police to return the two wheeler viz. Honda Unicorn bearing Registration No.TN-60-AF-1291 to the revision petitioner.



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For Petitioner : Mr.S.Mandhiralingeswaran
For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl. Side)

ORDER

The Criminal Revision Case is directed against the order, dated 21.02.2023, passed in Cr.M.P.No.1278 of 2023 on the file of the learned Judicial Magistrate, Uthamapalayam, Theni District dismissing the petition filed under Sections 457 and 451 of Cr.P.C.

2. The petitioner claims to be the owner of the two wheeler viz. Honda Unicorn bearing Registration No.TN-60-AF-1291. On 29.01.2023, the respondent police seized the vehicle on the ground that the vehicle was used for illegal transportation of 155 liquor bottles, and registered a case in Crime No.5 of 2023 for the offence under Section 4(1)(a) of the Tamilnadu Prohibition Act.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Uthamapalayam by filing a petition for the return of vehicle bearing registration No.TN-60-AF-1291 in Cr.M.P.



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No.1278 of 2023, and the learned Judicial Magistrate, Uthamapalayam, vide his order, dated 21.02.2023, has dismissed the said petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the petitioner has been arrayed as A2 in the aforesaid case, and the said vehicle has no connection whatever with the alleged occurrence, and the vehicle is with the police for the past one year and eleven months, and if the vehicle is kept in open place, the value of the said vehicle will get deteriorated. Therefore, interim custody may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner has been arrayed as



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A2 in this case, and the vehicle was used for illegal transportation of 155 liquor bottles. He would also submit that the value of the vehicle comes to Rs.90,000/- and the RC Book of the vehicle stands in the name of the petitioner. Further, he would submit that the confiscation proceeding has not yet been initiated.

7. In this case, the vehicle was seized on 29.01.2023. The vehicle is kept in the open place from 29.01.2023 onwards. Further, 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. Considering the over all facts and circumstances of the case, this Court is inclined to allow this revision by following the principle of law laid down by the Honourable Supreme Court, in the case of ***Sunderbhai Ambalal Desai Vs. State of Gujarat [2002 (10) SCC 283]***.

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 21.02.2023, passed in Cr.M.P.No.1278 of 2023 by the learned Judicial Magistrate, Uthamapalayam, Theni District is hereby set aside and the two wheeler Honda Unicorn bearing Reg.No.TN-60-



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AF-1291 is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions :

(i) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Uthamapalayam;

(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, Uthamapalayam at the cost of the petitioner and the petitioner's signature to be obtained in the backside 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, Uthamapalayam;

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



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(v) the petitioner shall produce the vehicle before the Court and the respondent police as and when required.

03.01.2025

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

- 1.The learned Judicial Magistrate,
Uthamapalayam, Theni District.
- 2.The Inspector of Police,
Highways Police Station,
Theni,
Theni District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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P.VADAMALAI, J.

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