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Crl.R.C(MD)No.1410 of 2024



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 02.01.2025

Pronounced on : 17.02.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1410 of 2024

V.Mugesh

... Petitioner

Vs.

The State of Tamil Nadu
The Inspector of Police,
Pettaivaithalai Police Station,
Trichy District.
(Crime No.88 of 2024)

... Respondent

PRAYER: This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records and set aside the order passed in Crl.M.P.No.3423 of 2024, dated 10.10.2024 passed by the District Munsif-cum-Judicial Magistrate Court, Srirangam and to grant interim custody of the vehicle to the petitioner.

For Petitioner : Mr.S.Srikanth

For Respondent : Mr.R.M.Anbunithi
Additional Public Prosecutor



ORDER

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This Criminal Revision Case is filed against the order, dated 10.10.2024, passed in Crl.M.P.No.3423 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Srirangam, dismissing the petition filed by the petitioner U/s.503 and 497 of BNSS for return of two wheeler bearing registration No.TN 64 Y 8519.

2.The brief facts of the case:

The defacto complainant was doing wholesale vegetable business in Mettupalayam. On 02.08.2024, he loaded vegetables in his lorry and sent them through driver and accountant for delivery to various shops in Kumbakonam and for collecting money. Accordingly, the driver and accountant delivered the vegetables and after collecting the money returned to Mettupalayam, at about 4.40 p.m. they parked the lorry with collected amount and went to the tea stall for having tea. At that time, one unknown person broke the cash box and stolen the cash worth about Rs.50,67,200/- and escaped by a car bearing registration No.TN 36 BW 8999 along with three persons. A case was registered by the respondent police in Crime No.88 of 2024 U/s.305(a) @ 109(1), 296(b), 305(a) and 351 (3) of BNS Act. During investigation, the accused were arrested and



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the vehicles were also seized including a two wheeler bearing registration number TN 64 Y 8519. The petitioner claims to be the owner of the vehicle and approached the learned District Munsif-cum-Judicial Magistrate, Srirangam by filing the petition in Crl.M.P.No.3423 of 2024 U/s.503 and 497 of BNSS and the learned Judicial Magistrate has dismissed the petition vide order, dated 10.10.2024.

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 Additional Public Prosecutor 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. As per prosecution case, the vehicle was purchased by the accused from the stolen money. He did not sell his two wheeler to anyone. The petitioner and his vehicle are not involved in this case. On request by his friend, he gave his two wheeler which was used by him, who is arrayed as Accused No.3 in this case. The particulars of the vehicle is not

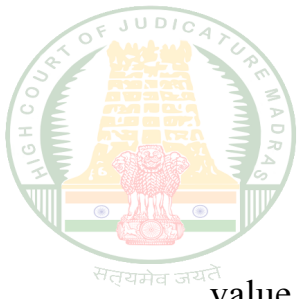


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mentioned in the FIR. The petitioner is the third party and RC book stands in his name. The seized vehicle is kept idle in open yard by the respondent police from the date of seizure. If the vehicle is in open place, due to exposure of sun and rain, the value of vehicle would get deteriorated and therefore, interim custody of the vehicle may be granted to the petitioner.

6. The learned Additional Public Prosecutor appearing for the respondent would submit that in this crime, totally seven accused were involved and six accused were arrested and Accused No.7 is still absconding. The accused gave a confession statement saying that he purchased the two wheeler from the petitioner Mugesh on 08.08.2024 by utilizing the robbery amount and the vehicle was seized on 17.08.2024.

7. On hearing both sides, it is clear that the vehicle was seized on 17.08.2024. The vehicle was seized and is kept in open place which was not disputed by the respondent police. The petitioner claims that he is the owner of the vehicle and produced copy of RC book. Though the prosecution case is that the accused purchased the vehicle from the petitioner, except the confession statement of the accused no other prima facie material was produced. The petitioner is not an accused in this case.



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8. 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 vehicle has been remanded before the concerned Judicial Magistrate Court in RPR.No.150/2024 which is not disputed. Whether the vehicle is involved or not can be decided only after thorough trial and after adducing evidence. 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. 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 10.10.2024 passed in Crl.M.P.No.3423 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Srirangam, is hereby set aside. The two wheeler bearing registration Number TN 64 Y 8519 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.1,00,000/- (Rupees One lakh only) with two sureties for the like sum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Srirangam;



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ii) The vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of Head Clerk of the learned District Munsif-cum-Judicial Magistrate, Srirangam 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, Srirangam;

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

(v) 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.

17.02.2025

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



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To

- 1.The District Munsif-cum-Judicial Magistrate,
Srirangam
- 2.The Inspector of Police,
Pettaivaithalai Police Station,
Trichy District.
(Crime No.88 of 2024)
- 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.1410 of 2024

17.02.2025