

**HIGH COURT OF MADRAS**

**CORAM: THE HONOURABLE MR. JUSTICE M. DHANDAPANI**

**Dated: 19th January 2024**

**Crl.R.C.(MD)No.37 of 2024**

**Muneeswari ... Petitioner**

**Vs.**

**State rep. by its:**

**The Inspector of Police, Dhanuskodi Police Station, Ramanathapuram District.**

**Crime No.87 of 2023 ... Respondent**

**Legislation and Rules:**

Sections 397 r/w 401 of the Criminal Procedure Code

Section 4(1)(a) of the Tamil Nadu Prohibition Act

Section 65B of the Central Act 1 of 1972

**Subject:** Criminal Revision Case seeking the return of a seized vehicle used in illegal transportation of liquor, under the ownership of the petitioner, following its seizure in connection with Crime No. 87 of 2023.

**Headnotes:**

**Vehicle Seizure and Interim Custody Request – Petitioner's vehicle seized for involvement in Crime No. 87 of 2023 under Tamil Nadu Prohibition Act – Petitioner seeks interim custody citing damage risks and financial obligations – Original application rejected by Trial Court [Paras 1-3]**

**Legal Argument and Opposition – Petitioner claims vehicle misused without her knowledge, ready to provide guarantee and security – Respondent objects, citing ongoing confiscation proceedings [Paras 3-4]**

**Court's Analysis and Decision – Citing Hon'ble Supreme Court's decision in Sunderbhai Ambalal Desai Vs. State of Gujarat, court considers vehicle's deteriorating condition if kept idle – Criminal Revision Case allowed, Trial**

**Court's order set aside, vehicle to be returned under certain conditions [Paras 6-9]**

Referred Cases:

- Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.) 2745 of 2022 dated 01.10.2002

Representing Advocates:

Mr. P. Praveenkumar for Petitioner

Mr. A. Thiruvadi Kumar, Additional Public Prosecutor for Respondent

Decision:

Petition allowed – Vehicle to be returned to petitioner under specific conditions, including bond execution, undertaking against illegal use, and provision for evidence and future requirements [Para 9]

**ORDER**

Challenging the order passed by the learned District Munsif-cum-Judicial Magistrate, Rameswaram, in Crl.M.P.No.7205 of 2023 dated 29.12.2023, the present Criminal Revision has been filed by the petitioner for seizure of her vehicle viz., Honda Dio Motor Bike bearing registration No.TN 65 AR 3560 and consequently, for a direction to the respondent to release of the vehicle.

2. The case of the petitioner is that the petitioner is the owner of the vehicle bearing Registration No.TN 65 AR 3560, which was seized from the accused person and the accused person was implicated for the offence under Section 4 (1)(a) of the Tamil Nadu Prohibition Act. It is the case of the prosecution that on 13.12.2023, the accused was used the said vehicle for illegal transportation of the liquor bottle, thereby, the Law Enforcing Agency registered a case in Crime No.87 of 2023 and pursuant to which the petitioner made an application under Sections 451 and 457 of Criminal Procedure Code seeking interim custody of vehicle bearing Registration No.TN 65 AR 3560 in

Crime No.87 of 2023. However, the said application was rejected. Challenging the same, the petitioner has filed the present Criminal Revision case.

3. The learned counsel for the petitioner submitted that the admittedly the vehicle was misused by the offender without the knowledge of the owner of the vehicle. He further submitted that the vehicle was purchased under hypothecation and he has to pay the EMI and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle and that the vehicle is not involved in any case of similar in nature and the petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the vehicle to the petitioner.
4. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is owner of the vehicle bearing registration No.TN 65 AR 3560 and since the above said vehicle was used to transport the liquor bottle without valid invoice, it was seized and the case property was already sent to Deputy Superintendent of Police, PEW Ramanathapuram, for confiscation proceedings and hence, he objected to return the vehicle to him.
5. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the respondent and perused the materials on record.
6. A perusal of the records shows that, the respondent police registered a case in Crime No.87 of 2023 for the offences under Section 4(1) (a) of TNP Act with regard to transportation of liquor bottle illegally. Further, it reveals from the records that the petitioner is the owner of the vehicle, Honda Dio Motor Bike bearing registration No.TN 65 AR 3560 and it was seized by the respondent police. The Trial Court dismissed the petition in Cr.M.P.No.7205 of 2023, filed by the petitioner, on the ground that confiscation proceedings have been taken against the petitioner vehicle. It is the contention of the learned counsel for the petitioner that the petitioner is ready to give guarantee and security for returning the vehicle and if the vehicle is being kept idle in open space, it would cause damage to the vehicle.

7. At this juncture, it is relevant to rely upon a decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs. State of Gujarat* in Special Leave Petition (Crl.)2745 of 2022 dated 01.10.2002 wherein the Hon-ble Supreme Court has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.
8. Considering the above aspects and also as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that, keeping the vehicle idle in the open space, will diminish its nature and lose its value and no purpose will be served. As such, considering the nature of offence, this Court is inclined to allow the Criminal Revision Petition.
9. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court, dated 29.12.2023 is set aside. The respondent police is directed to return the vehicle to the owner on the following conditions :
  - i. the petitioner shall prove her ownership of the vehicle by producing the R.C.Book and other relevant records;
  - ii. the petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees Ten Thousand only) before the learned District Munsif-cum-Judicial Magistrate, Rameswaram, and the learned Magistrate shall not insist on production of solvency certificate.
  - iii. the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle and such panchnama can be used in evidence.
  - iv. the petitioner shall take photograph of the vehicle and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
  - v. the petitioner shall not alienate or encumber the vehicle in any manner;
  - vi. the petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in future,
  - vii. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

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