

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

Present: E. Pravin Kumar, B.A.,B.L.,

Judicial Magistrate No.V, Madurai

Thursday 8th day of October 2020

Crmp.No.766/ 2020

R.Prasath Gunaraj,
S/o.Rajendran

...Petitioner/ Owner

vs

State rep. by Inspector of police,
S.S.Colony Police Station,
Crime No.2093/2020
U/sec. 379 IPC

... Respondent/Complainant

For petitioner/accused: Tr.A.Thiraviyam, B.A.,B.L.,Advocate

For Respondent/Complainant: Mrs.R.Thilagarani,M.L.,Grade II Assistant Public Prosecutor

08.10.2020.

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Honda Unicorn Two wheeler bearing a registration No. TN 65 V 6211 remanded in R.P.R.No. /2020 as interim custody to the petitioner.

2. Notice issued and the prosecution has filed their reply.

3. The learned counsel for the petitioner would contend that this petitioner is third party in this case and owner of the case property. The vehicle of this petitioner went missing on 03.09.2020 and FIR was registered in Crime No.1834/2020 in Thilagarthidal Station. The accused who stole this property has used it to commit the crime. Later, the case property was recovered in this case in FIR was registered in Crime No.2093/2020 in the file of S.S.Colony Police Station, for offence U/sec.379 IPC and now the property is said to have been seized by the police and handed over in court. The property mentioned in this petition is not involved in any way in this case. The property is a vehicle and if kept idle, the value of the vehicle will go down. Hence, the petitioner prays that this petition may be allowed.

.2.

4. On the other hand the prosecution strongly object to return the property to the petitioner for the following reason. As per IO's report this crime was committed using of the property (TN 65 V 6211). It is a important Material object of this case. In this stage if this property is returned to the petitioner he may alienate the above ssid at the trial. Hence this petition may be dismissed.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence. The property happens to be a motorized vehicle, if it is kept unused for a long time, the engine may get struck up and the value of the property may get reduced and exposed to sun and light and its value would be deteriorated. Further the Hon'ble Supreme Court of India in the recent decision as reported in 2003(1) C.T.C page 175-Sundarbhai Ambalal Desai Vs.state of Gujarat has laid down certain guidelines to the Magistrates to hand over the properties at the pre-trial stage. Taking all the facts and circumstances of this case and guidelines issued by the Hon'ble Supreme Court of India it will be just and proper to hand over the property to the petitioner herein as interim custody. After all, the petitioner is going to hold the property in the capacity of a bailee or trustee.

6. In the result, the case property Viz for returning of the property viz Honda Unicorn Two wheeler bearing a registration No. TN 65 V 6211 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the original RC book for verification before this court.
2. The petitioner shall produce the photograph of the property and panchanama.
3. The Petitioner/Owner has to execute bond for himself with one another surety for a sum of Rs.80,000/-each.
4. He shall not alienate or change the nature of the property without permission of this court.
5. He shall produce the same as and when required in court.

Dictated by me to the Steno-typist and typed by her in computer directly and corrected and pronounced by me in open court on this 8th day of October 2020.

(Sd-E.Pravinkumar)

Judicial Magistrate No. V,
Madurai.

