

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Wednesday, 29th day of July 2020

Crmp.No.580/ 2020

Ahamed Ibrahim @ Quibla

S/o.Ibrahim.

...Petitioner/Owner

vs

State rep. by Sub Inspector of police,

C1 Thideer Nagar Police Station,

Crime No.554/2020

U/sec. 147, 294(b), 323, 269 IPC

... Respondent/Complainant

For petitioner/accused: Mr. P.Suresh Kumar, Advocate (MS.1750/2005)

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

Prosecutor

29.07.2020.

ORDER

1. This petition is filed U/s.457 and 451 IPC For returning of the property viz Hero Honda Splender Plus bearing Registration No.TN 58 M 0786 remanded in R.P.R.No. 219/2020 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 the case property TN 58 M 0786 Hero Honda Splender Plus belonged to this petitioner. This petitioner states that he had lodged a complaint against the defacto complainant in this case. In that enmity this defacto complainant has lodged this complaint and FIR was registered in Crime No.554/2020 on the file of Thideer Nagar Police Station, for offence U/s.147, 294(b), 323, 269 IPC and now the property is said to have been seized by the police and handed over in court. This property is not involved in any way in the offence 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.

4. On the other hand the prosecution has stated in this crime is committed using this property (TN 58 M 0786 Hero Honda Splender Plus). This property is an important evidence for this case. Investigation of this case is pending in stage. In this stage if this property is returned to this petitioner he may allow the accused to commit the same offence and he may alienate the above said property and he may not produced at the time of 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. Hero Honda Splender Plus bearing Registration No.TN 58 M 0786 remanded in R.P.R.No. 219 /2020 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 before this court.
2. The petitioner shall produce the photograph of the property and panchanama.
3. The Petitioner has to execute bond for himself with one another surety for a sum of Rs.65,000/-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.

(S/d) E.PravinKumar
Judicial Magistrate No. V,
Madurai.

