

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Friday, 31st day of July 2020

Crmp.No.581/ 2020

Sivapriya,

W/o.Dhanapandi

...Petitioner/Owner

vs

State rep. by Inspector of police,

S.S. Colony Police Station,

Crime No.1595/2020

U/sec. 379 of IPC

... Respondent/Complainant

For petitioner/accused: Mr.S.Paneer Selvam, B.Sc., B.L.,Advocate

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

Prosecutor

**31.07.2020.**

**ORDER**

1. This petition is filed U/s.457 and 451 IPC For returning of the property viz Honda Shine Black bearing Registration No.TN 58 AD 3173 remanded in R.P.R.No.225/2020 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 AD 3173, Honda Shine Black belonged to the husband of this petitioner. But her husband died on 27.02.2020.This petitioner and her two children and mother of the husband are the legal heirs of her husband. The two children are minors. The mother of her husband has filed an affidavit stating no objection in handing over the property to this petitioner. The death certificate and the legal heir certificate of her husband are filed herewith. The vehicle mentioned in this petition was lost on 15.06.2020 and FIR was registered in Crime No.1595/2020 on the file of S.S.Colony Police Station, for offence U/s.379 IPC and now the property is said to have been seized by the police and handed over in court. This petitioner 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.

4. On the other hand the prosecution has stated the investigation of this case is pending in stage. Accused was arrested by Annanagar PS in their Cr.No.1067/2020 U/s. 379

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and this case property TN 58 AD 3173 Honda Shine Black colour was seized. Due to Corona Pandemic lockdown the investigation officer is not able to arrest the accused through PT warrant. In this stage if this property is returned to this petitioner she may alienate the above said property and she 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, the death certificate, Legal heir certificate of the deceased Dhanapandi and the affidavit of no objection filed by Dhanalakshmi. 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. Honda Shine Black bearing Registration No.TN 58 AD 3173 remanded in R.P.R.No.225 /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 herself with one another surety for a sum of Rs.60,000/-each.
4. She shall not alienate or change the nature of the property without permission of this court.
5. She shall produce the same as and when required in court.

( Sd-E.Pravinkumar)

Judicial Magistrate No. V,

Madurai.