

IN THE COURT OF JUDICIAL MAGISTRATE No. V, MADURAI

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

Judicial Magistrate No.V, Madurai

Thursday 10th day of December 2020

Crmp.No.1162/ 2020

Sam Deniel,  
S/o.Ashirvatham

...Petitioner/ Owner

vs

State rep. by Inspector of police,  
Karimedu Police Station,  
Crime No.1407/2020  
U/sec. 379 IPC

... Respondent/Complainant

For petitioner/accused: Tr.P.Ganesan,Advocate

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

10.12.2020.

ORDER

1. This petition is filed U/s.457 and 451 Crpc for returning of the property viz Honda Activa Two Wheeler bearing Registration No.TN 50 AJ 8076 remanded in R.P.R.No.360/2020 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 belonged to the petitioner. This petitioner is the defacto complainant to this case. FIR was registered in Crime No.1407/2020 in the file of Karimedu 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 RC Book at present was unknown to this petitioner's knowledge changed to name of Sakthivel, S/o.Sandeepan. The said Sakthivel, S/o.Sandeepan appeared before this court and filed affidavit stating he has no objection in handing over the property to this petitioner the original owner/ Defacto complainant. 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 that as per IO' report this petitioner is a defacto complainant. After due verification of ownership and identity of the abovesaid property. This Hon'ble court may passed appropriate order.

5. This court has taken into consideration all the above facts and circumstances of the case and gravity of offence, the petitioner is the owner/ defacto complainant and no objection affidavit filed by Sakthivel S/o.Sandeepan, and the reply of prosecution. 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 Activa Two Wheeler bearing Registration No.TN 50 AJ 8076 remanded in R.P.R.No.360/2020 is directed to be handed over to the petitioner herein as interim custody on the following conditions:

1. The petitioner shall produce the xerox copy of the RC book before this court and original RC Book for verification.
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.70,000/-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 10th day of December 2020.

(Sd-E.Pravin kumar)

Judicial Magistrate No. V,  
Madurai.

