



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 07.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.RC(MD) No.173 of 2016

Tharmendran

... Petitioner / Accused No.1

-vs-

State by
The Inspector of Police,
NIBCID,
Ramanathapuram District.
(Crime No.44 of 2015)

... Respondent/Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records pertaining to the order passed in Crl.M.P.No.1767 of 2015 dated 08.01.2016 passed by the learned Additional District Court for EC and NDPS Act cases, Pudukottai District dismissing the petition filed by the petitioner under Section 451 of Cr.P.C. to return the vehicle Ashok Leyland bearing Reg.No. TN 85 A 6081 of the petitioner for his interim custody and set aside the same.

For Petitioner : Mr.M.Karunanithi

For Respondent : Mrs.S.Prabha
Govt.Advocate (Crl.Side)

O R D E R

The dismissal of property return petition in Crl.M.P.No.1767 of 2015 on the file of the learned Additional District Judge under E.C. Act and NDPS Act, Pudukottai is challenged by the revision petitioner.

2.It is alleged that the revision petitioner is owner of vehicle as well as owner of the Kanja. The Ashok Leyland TN 85 A 6081 vehicle was seized and it was reported to the Court. His return of property petition has been dismissed since the trial has not started. For not starting the trial petitioner cannot be blamed. That is also an irrelevant aspect in a property return petition. The principles laid down by the Hon'ble Apex Court in *Sunderbhai Ambalal Desai v. State of Gujarat* [2003 (1) CTC 175 (SC)] squarely applies to this case. So, the order of the trial



Court must go.

3. Ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 08.01.2016, passed in Cr.M.P.No.1767 of 2015, by the learned Additional Sessions Judge under EC Act and NDPS Act, Pudukottai, is set aside.
- iii. The said Judge will give interim custody of Ashok Leyland TN 85 A 6081 vehicle to the revision petitioner. The vehicle shall be photographed. It shall be signed by the revision petitioner. It shall be kept in the case records.
- iv. The revision petitioner will execute a personal bond for Rs.3,00,000/- (Rupees Three Lakhs only) to the satisfaction of the said Judge.
- v. There shall not be any attempt to alter or dispose of the vehicle till the property order is passed by the trial Court.
- vii. The revision petitioner will produce the vehicle as and when so ordered by the Court.

Sd/-

Assistant Registrar (CS-II)

/True Copy/

Sub Assistant Registrar

To:

1. The Additional Sessions Judge EC Act and NDPS Act,
Pudukottai.

2. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

3. The Inspector of Police,
NIBCID, Ramanathapuram District.

+1cc to Mr.M.Karunanithi, Advocate, Sr.No.28364

sj

JM/KBM/14.06.2016/2P-5C

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