



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 08.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.523 of 2016

Kakka @ Seeni Kaja Mohamed ... Revision Petitioner/Petitioner

-vs-

State
rep. by the Sub-Inspector of Police,
Earvadi Dharga Police Station,
Ramanathapuram District.
(Crime No.122 of 2015) ... Respondent/Complainant

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records and set aside the impugned order passed by the learned Additional District and Sessions Judge/Presiding Officer, Special Court for E.C. and NDPS Act cases, Pudukkottai in Cr.M.P.No.1706 of 2016 dated 30.06.2016 and to set aside the same and further direct the learned Additional District and Sessions Judge/Presiding Officer, Special Court for E.C. and N.D.P.S. Act Cases, Pudukkottai to grant interim custody of vehicle, a Car viz., Innova Black Colour bearing Registration No.TN 07 AL 7090 to the Petitioner.

For Petitioner : Mr.S.Deenadhayalan
For Respondent : Mr.P.Kandasamy
Govt.Advocate (Crl.Side)

ORDER

Aggrieved by the dismissal of his property return petition in Cr.M.P.No.1706 of 2016, by the Additional Sessions Judge, Special Court for E.C. and NDPS Act Cases, Pudukkottai, the petitioner has come forward with this revision.

2.Earvadi Dharga Police registered a case in Crime No.122 of 2015. In this connection a Innova Car TN 07 AL 7090 has been seized by the police. The revision petitioner is the registered owner of the vehicle. He filed Crl.M.P.No.1706 of 2016 under Section 451 Cr.P.C. and sought for interim custody of the property.

<https://hcservices.ecourts.gov.in/hcservices/>

3.The learned Special Judge passed the impugned order which



runs as under:

"... (b) The learned Special Public Prosecutor objected on the ground that the vehicle is necessarily to be marked as Material Object in the above trial.

(c) On perusal of records it could be seen that the vehicle INNOVA BLACK COLOUR CAR Bearing Registration No.TN.07 AL 7090 was seized on 07.02.2016 by the respondents police when the accused came in the vehicle with two parcels of ganga each 2 Kg. He was arrested and remanded to custody. Subsequently he was released on bail.

(d) On behalf of the petitioner/6th accused, neither the petitioner nor the counsel for the petitioner/6th accused appeared and represented the case of the petitioner/6th accused.

(e) In view of the above discussion, this Court is not inclined to return the vehicle INNOVA BLACK COLOUR CAR Bearing Registration No.TN.07 AL 7090 to the petitioner/6th accused. This petition is liable to be dismissed.

5. In the result, the petition is dismissed."

4.A reading of the impugned order would show non application of mind by the learned Special Judge. The learned Special Judge seems to have not understood the scope of Section 451 Cr.P.C. It is a clear case of disinclination to exercise jurisdiction. Every one knows the decision of the Hon'ble Supreme Court in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]**. If the learned Special Judge knows the same, the learned Judge ought not to have passed such an order. The learned Judge mechanically passed the impugned order.

5.What is important is that the property viz., INNOVA BLACK COLOUR CAR TN.07 AL 7090 has to be preserved. Otherwise it will be exposed to open sky and it will become scrap value. Some times miscreants may steel its parts.

6. In the circumstances, it is ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 30.06.2016, passed in Cr.M.P.No.1706 of 2016, by the learned Additional Sessions Judge, Special Court for E.C. NDPS, Pudukkottai, is set aside.
- iii. The said Judge will give interim custody of the property viz. INNOVA BLACK COLOUR CAR TN.07 AL 7090 to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.15,00,000/- (Rupees Fifteen Lakhs only) to the satisfaction of the said Judge.
- v. The property shall be photographed and it shall be kept in the case records.



- vi. As and when so directed the vehicle shall be produced before the said Court.
- vii. Till the final property order is passed, the revision petitioner shall not dispose of or disfigure the vehicle.
- viii. He can carry out the minor repairs but to effect major repair, he should get permission of the Court.

Sd/-

Assistant Registrar (W)

/True Copy/

Sub Assistant Registrar

To:

1. The Additional District and Sessions Judge,
Special Court for E.C. and NDPS Act Cases,
Pudukottai.
2. The Inspector of Police,
Earvadi Dharga Police Station,
Ramanathapuram District.
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+ 1 CC TO MR.S.DEENADHAYALAN, ADVOCATE IN SR No. 42789

SJ

TE/NGM-MP/SAR-AE : 09/08/2016 : 3P/5C (IT)

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