



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 29.08.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

Crl.RC(MD) No.587 of 2016

WEB COPY

Rajasekar

... Petitioner / Petitioner /
Owner of the Vehicle

-vs-

The State, rep. By its
The Inspector of Police
Kenikarai Police Station
Ramanathapuram District
(Cr.No.536 of 2015)

... Respondent / Respondent /
Complainant

PRAYER : Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., to call for the records relating to the order of the learned Additional District and Sessions Judge, Special Court for E.C., and N.D.P.S.Act Cases, Pudukottai, in Cr.M.P.No.1351 of 2016, dated 30.06.2016, filed by the petitioner under Section 451 Cr.P.C., and set aside the same as illegal and entrust the custody of the Car bearing registration No.TN65 L0068 to the petitioner.

For Petitioner: Mr.M.Jegadeesh Pandian

For Respondent: Mr.S.Prabha

Govt. Advocate (Crl.Side)

O R D E R

Aggrieved by the dismissal of his property return petition in Cr.M.P.No.1351 of 2016, by the learned Special Judge under E.C. & N.D.P.S.Act, Pudukkottai, a third party / vehicle owner has directed this revision.

2. A TATA Manza Car (TN65 L0068) has been seized by Kenikarai Police in Crime No.536 of 2015 for an offence under N.D.P.S.Act. The Car belongs to the petitioner. Incidentally, the accused is none other than his brother.

3. The learned Special Judge, by his order, dated 30.06.2016, dismissed the property return petition, mainly on the ground that it is required to be marked as a Material Object during trial.

4. Aggrieved, the petitioner has directed this revision.

<https://hcservices.courts.gov.in/hcservices>
5. The learned counsel for the petitioner submits that the petitioner is not an accused. He will abide by the terms and conditions which would be imposed by this Court.



6. The learned Government Advocate (Criminal Side) submits that in this case the Car is the case-property. It is needed to be marked as a Material Object.

7. I have anxiously considered the rival submissions, perused the impugned order and also the materials on record.

8. Let the petitioner's brother be an accused. But, the petitioner is not an accused. He is the vehicle owner. The Car is required to be preserved and it should not be allowed to remain idle nor open to sky. The Apex Court's decision in *Sunderbhai Ambalal Desai vs. State of Gujarat [2003 (1) CTC 175(SC)]* applies here.

9. In view of the above, ordered as under:

- i. This revision is allowed.
- ii. The Order, dated 30.06.2016, passed in Cr.M.P.No.1351 of 2016, by the learned Special Judge under E.C. & N.D.P.S.Act, Pudukkottai, is set aside.
- iii. The learned Special Judge, will give interim custody of TATA Manza Car (TN65 L0068) concerned in Crime No.536 of 2015 to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.4,50,000/- (Rupees four lakhs and fifty thousand only) to the satisfaction of the said Special Judge.
- v. It is made clear that no property document, Solvency Certificate or surety shall be insisted upon.
- vi. A photograph of the said Car with the signature of the revision petitioner shall be kept in the case-records.
- vii. Until final property order is passed by the Trial Court, the revision petitioner shall not dispose of, alter or change the said Car.
- viii. The revision petitioner shall also give an undertaking affidavit to the said Court to the effect that he will not dispose the Car in any way, until final order is passed. However, by filing proper application, he can seek permission of the Court to carry out repairs of the said Car.
- ix. The revision petitioner shall cause the production of the said Car as and when so ordered by the Trial Court.

Sd/-

Assistant Registrar(W)



To:

- 1.The Special Judge
under E.C. & N.D.P.S.Act,
Pudukkottai.
- 2.The Government Advocate (Criminal Side),
Madurai Bench of Madras High Court,
Madurai.
- 3.The Inspector of Police
Kenikarai Police Station
Ramanathapuram District.

+One cc to Mr.M.Jegadeesh Pandian, Advocate, SR.No.48186

krk

RL/5C/2P/SK/SKN/8/9/2016

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