

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 25.09.2019

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THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.R.C.No.905 of 2019

M.Chandrasekar .. Petitioner/petitioner
Vs

State rep by
The Inspector of Police,
Siva Kanchi Police Station,
Kancheepuram District.
(Cr.No.15/2019)

... Respondent/Complainant

Prayer:- This Petition is filed under section 397 read with 401 of Cr.P.C., to call for the records in Crl.M.P.No.815/2019, dated 03.07.2019, on the file of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai and set aside the same and direct the respondent herein to return the vehicle namely, Maruti Suzuki India Ltd., Car (Sedan), bearing Reg. No.TN 09 BB 5622, and bearing chasis No.MA3EFJC1S00151414 and Engine No.M16AN2012643.

For Petitioner : Mr.A.Saranraj

For Respondent : Mr.M.Mohamed Riyaz, APP

ORDER

This Criminal Revision Petition has been filed, seeking to set aside the order, dated 03.07.2019, made in Crl.M.P.No.815/2019, by the learned Principal Special Judge, Principal Special Court, under EC & NDPS Act, Chennai and to direct the respondent to return the vehicle namely Maruti Suzuki India Ltd., Car (Sedan), bearing Reg. No.TN 09 BB 5622, and chasis No.MA3EFJC1S00151414 and Engine No.M16AN2012643.

2 This Court heard the learned counsel for both sides.

3 The case of the prosecution in a nutshell as per the complaint given by the Inspector of Police, Siva kanchi Police Station, Kanchipuram is that on 14.01.2019, at around 10.15 p.m., while the de-facto complainant along with his team were conducting regular vehicle checkup, he had seen a car coming

along the way and when the car was intercepted by the respondent/police the occupants had stopped the car and they got down and ran away. When the police party had attempted to apprehend them, one of the occupants in the car viz., Dinesh, had showed his pistol and threatened the police party. When the police party checked the vehicle, they found a bag containing 1.900Kg of ganja and the respondent had recovered the same. Based on the complaint, given by the de-facto complainant, a case in Cr.No.15/219, was registered against the occupants of the car for the offence under Section 353, 307, 506(20 of IPC read with Section 25 (1B) (b), 25(1)(b) of ARMS Act and that the contraband and the car were seized and they have been produced before the Court. The petitioner being a third party and owner of the vehicle had filed a petition seeking for return of vehicle and the Trial Court had dismissed the same. Against which the present criminal revision has been filed.

4 The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and that it was borrowed from him by his uncle and thereafter, without his knowledge, the vehicle had been used in the offence and that the petitioner is not an accused and he has nothing to do with the offence committed by the other accused. He would further submit that the vehicle was seized on 14.01.2019 and it is left idle in the open space thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby putting the petitioner to hardship. He would submit that the petitioner is prepared to give an undertaking that he will not dispose of or alter the appearance of the vehicle in any manner and produce it before the Trial Court as and when required.

5 The respondent had filed a counter, stating that the vehicle was used for commission of crime, in respect of which, a case in Cr.No.15/2019, is registered by the respondent police. The learned Additional Public Prosecutor would submit that the occupants in the vehicle when intercepted have attempted to escape and when police tried to apprehend them they attempted to do away with the de-facto complainant and during the search of the vehicle, 1.900Kg of ganja was recovered and that the case is still under investigation. He would further submit that the petitioner is not an accused.

6 The petitioner is the owner of the vehicle, he is not an accused in this case. This court is of the opinion that there is no purpose in keeping the vehicle idle in the police station which will result in the value of the vehicle getting diminished.

7 Accordingly, this criminal revision petition is allowed and the impugned order passed by the Trial Court, dated 03.07.2019, made in CrI.M.P.No.815/2019, by the learned Principal Special Judge, Principal Special Court, under EC &

NDPS Act, Chennai, is hereby set aside and that the vehicle in question, bearing registration number TN09 BB 5622 is herein ordered to be returned the petitioner, subject to the following conditions:

- a. The petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties.
- b. The petitioner shall produce the RC Book of the vehicle in question before the Trial Court and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court as and when required by the Trial Court.
- c. The RC book of the vehicle shall be retained by the Trial Court till the disposal of the trial or until further orders.

Sd/-

Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

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To:

1. The Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police, Siva Kanchi Police Station, Kancheepuram District.
3. The Public Prosecutor, High Court, Madras.

+lcc to Mr.A.SaranRaj, Advocate sr.92159

Cr1.R.C.No.905 of 2019

vba(co)
nr 06/11/2019

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