

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.11.2019

CORAM:

THE HON'BLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.RC.No.1223 of 2019

Jeevarathinam

...Petitioner

Vs.

State rep.by

The Inspector of Police,

K-10, Koyembedu Police Station,
Chennai.

...Respondent

Criminal Revision Case filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order of the Principal Special Judge, Principal Court under EC Act and NDPS Act Cases at Chennai in Crl.MP.No.2175 of 2019 dated 31.10.2019 and return the vehicle seized in Tata Ace bearing No.TN-10-AD-6744 to the petitioner in Crime No.871 of 2019 on the file of the respondent.

For Petitioner : Mr.P.John Sundar Jabez

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This revision has been filed against the order passed in Crl.MP.No.2175 of 2019 by the Principal Special Judge, Principal Court under EC Act and NDPS Act Cases, Chennai dated 31.10.2019, dismissing the petition filed under Section 451 Cr.P.C. seeking for return of TATA ACE bearing Registration No.TN-10-AD-6744.

2. The brief facts of the case is that the petitioner / 3rd party / owner of the vehicle had filed a petition seeking for return of his vehicle TATA ACE bearing Registration No.TN-10-AD-6744, on the ground that the vehicle belongs to him and that without his knowledge the driver of the vehicle one Ajithkumar had used the vehicle for illicit transport of 1.100 kgs of Ganja. It had been further contended that he has nothing to do with the commission of offence and the value of the vehicle is getting diminished as it is parked in the open and kept idle. The respondent had filed a counter objecting to the return of vehicle stating that the vehicle has been used for illicit

trafficking of Ganja and the chasis number of the vehicle had been completely erased by grinding it to avoid fixing the owner and thereby, had sought for dismissal of the petition.

3. The trial Court finding that the vehicle had been used for illicit transport of 1.100 kg of Ganja and also finding that the chasis number and the engine number have been thoroughly erased by grinding upon the numbers to make it invisible to avoid fixing the owner of the vehicle and that it had been wantonly done in order to continue to use the vehicle illicitly, had dismissed the petition. Against the order, the present revision has been filed.

4. The learned counsel for the petitioner would submit that the petitioner is not arrayed as an accused. The vehicle of the petitioner has been used without the knowledge of the petitioner by his driver and his driver has been arrested and that the driver has been released on bail. The petitioner is eking out his livelihood by giving the vehicle on hire. He would submit that due to the vehicle being parked in the open, the value gets diminished and thereby seek for grant of interim custody of the vehicle to him.

5. The respondent has filed a counter on 18.11.2019, wherein it is stated that the vehicle was seized in connection with the case registered in Crime No.871 of 2019 under Section 8 (c) r/w 20 (b) (ii) (B) & 25 of NDPS Act and the driver of the vehicle one AjithKumar was arrested for illicitly transporting 1.100 kg of Ganja.

6. The learned Additional Public Prosecutor would vehemently oppose stating that at the time of seizing the vehicle, it was found that the chasis and engine number of the vehicle had been erased to avoid fixing the owner of the vehicle and it had been wantonly done in order to continuously use the vehicle in illicit transport of contraband. He would further submit that the case is ripe for trial and there are totally five witnesses. The case has been posted for examination of witnesses on 03.12.2019 and that the vehicle is required for marking and if the interim custody of the vehicle is given to the petitioner at this stage, it will derail the trial.

7. I have gone through the order and it is seen that at the time of seizing of the vehicle, chasis and engine number had been erased to avoid fixing the owner of the vehicle. Further, it is also stated by the learned Additional Public Prosecutor that the case is ripe for trial and the vehicle is required for marking.

8. In the considered opinion of this Court, if the interim custody of the vehicle is given to the petitioner at this stage, it will derail the progress of the trial. I do not find any infirmity in the order. The revision stands dismissed. However, the petitioner is at liberty to file a petition to return the property on the conclusion of trial and the trial Court shall pass orders in accordance with law. The trial Court shall take earnest effort to complete the trial within a period of three months from the date of receipt of the copy of the order.

-s/d-

Assistant Registrar(CCC)

True Copy

Sub-Assistant Registrar

bri
To

1. The Principal Special Judge,
Principal Special Court under EC Act
and NDPS Act Cases,
Chennai 104.
2. The Inspector of Police,
K-10, Koyembedu Police Station,
Chennai.
3. The Public Prosecutor,
High Court, Madras.

Copy to

The Section officer
Criminal Section
High Court, Madras 104.

+1 CC to Mr.P.John Sundar Jabez, Advocate sr 97172.

WEB COPY

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RP(CO)
SP(03/02/2020)