

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

CRL.RC.No.1170 of 2020

Venkatachalam,
S/o.Chinnasamy

..Petitioner

/versus/

The State represented by
The Inspector of Police,
N.I.B, C.I.D, Salem,
Salem District.
(Crime No.33/2020)

..Respondent

Prayer: Criminal Revision Case filed under Section 397 and 401 of Code of Criminal Procedure filed to set aside the order passed in Cr.M.P.No.528 of 2020 dated 29.10.2020 on the file of the Special Court for EC/NDPS Act Cases, Salem and direct the respondent to release the petitioner's motor cycle 'Honda Dio' bearing Registration No.TN 29 BJ 7880 which was seized in connection with the Cr.No.33 of 2020 seized on 30.08.2020 on the file of the respondent.

For Petitioner : Mr.T.Muruganantham
For Respondent : Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

The petitioner, accused in Crime No.33 of 2020 has filed this petition seeking return of vehicle viz., Honda Dio (Motor Cycle) bearing Registration No.TN 29 BJ 7880, against the dismissal order passed by the learned Special Judge for EC/NDPS Act Cases in Cr.M.P.No.528 of 2020 dated 29.10.2020.

2.The gist of the case is that on 30.08.2020, the Special Sub-Inspector of Police attached to the respondent received a secret information about the transportation of Ganja in bike. After following the formalities, the Special Sub-Inspector of Police along with his team reached scene of occurrence. At that time the petitioner came in his motor bike, he was stopped and his vehicle was searched and 1.600 kilograms of Ganja was found. The accused was arrested and the contraband and motor cycle was seized.

3.The contention of the petitioner is that the petitioner is an agriculturist and he is the owner of the vehicle. The petitioner purchased the vehicle with the assistance of the HDFC Bank, Dharmapuri. He used his vehicle for his agricultural work and other works. The petitioner has been falsely implicated in this case and the respondent Police had not followed statutory guidelines as per law. The vehicle seized from the petitioner has been kept in the Police Station exposing to the vagaries of weather. The petitioner has got no bad antecedents and prayed for return of vehicle.

4.The learned Additional Public Prosecutor submitted that the respondent Police received a secret information and on information they gone to the scene of occurrence and conducted search. The petitioner came in his motor bike, he was stopped. Following the statutory procedures the petitioner and the vehicle was searched and Ganja was found in the Handle bar of the bike and thereafter samples were taken for concurrent analysis. The accused was arrested and confessed about the involvement in this case. The contraband and the vehicle was produced before the Lower Court. The quantity involved in this case was 1.600 kilograms and the petitioner had no bad antecedents.

5.Considering the submission and perusal of the materials it is seen that the petitioner's motor bike was seized by the respondent along with the documents. Before the Lower Court he prayed for return of vehicle and vehicle documents. The Lower Court found that the vehicle documents are not produced by the respondent Police. Further on the objection of the respondent the Lower Court dismissed the petition. Taking note of the fact that the petitioner is the owner of the motor bike and the vehicle was purchased by him by getting the financial assistance from HDFC Bank and the petitioner had got no bad antecedents and as per the decision of Hon'ble Supreme Court in the case of Sunderbhai Ambalal Desai Vs. State of Gujarat" reported in MANU/SC/1110/2002 and AIR 2003 638, this Court is inclined to grant custody of the vehicle to the petitioner.

6.In view of the same, the Lower Court is directed to grant custody of the said vehicle (Honda Dio) bearing Registration No. TN 29 BJ 7880 to the petitioner after causing necessary photographs and panchanama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii):-

(i) The petitioner shall execute a personal bond for a sum of Rs.20,000/- with two sureties each, for a like sum to the satisfaction of the the Special Court for EC/NDPS Act Cases, Salem. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii) The petitioner shall not alter or alienate the vehicle in question till the completion of Trial;

(iii) The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;

(iv) The petitioner shall produce the original R.C. Book and submit a photostat copy of R.C.Book before the the Special Court for EC/NDPS Act Cases, Salem;

6. In view of the above, the order made in Cr.M.P.No.528 of 2020 dated 29.10.2020 by the Special Court for EC/NDPS Act Cases, Salem is hereby set aside. The Criminal Revision Case is accordingly, allowed.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

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To:

- 1.The Special Court for EC/NDPS Act Cases, Salem.
- 2.The Inspector of Police, N.I.B, C.I.D, Salem, Salem District.
- 3.The Public Prosecutor, High Court, Madras.

+1cc to M/s.T.Muruganantham, Advocate, S.R.No.41461

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SR II (CO)
KKV/05/01/2021