



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATE : 17.11.2021

CORAM

THE HONOURABLE MRS. JUSTICE R. THARANI

CrI. R.C.(MD)No.833 of 2021

Subbulakshmi

.. Petitioner/3rd Party/Vehicle Owner
Vs.

1.The State rep. by
The Inspector of Police,
NIB CID Police Station,
Nagapattinam.
(In Crime No.06/2021)

.. 1st Respondent/1st respondent/
Complainant

2.Mahendiran

3.Viknesh

4.Sundar

5.Rajkumar

.. Respondents 2 to 5/Accused /
Accused No.1 to 4

Prayer : This criminal revision case filed under Section 397 r/w. Section 401 of Cr.P.C., to call for the records relating to the order, dated 12.08.2021, made in Cr.M.P.No.624 of 2021, on the file of the Special Court under Essential Commodities Act, Thanjavur and to set aside the same as illegal and entrust the custody of the vehicle to the petitioner and allow the Revision.

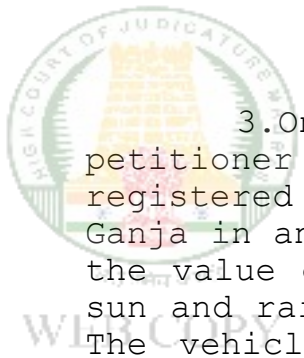
For Petitioner : Mr.R.Gandhi

For Respondent : Mrs.K.Asha
Government Advocate

ORDER

This Criminal Revision Case has been filed to set aside the order, dated 12.08.2021, made in Cr.M.P.No.624 of 2021, on the file of the Special Court under Essential Commodities Act, Thanjavur.

2. A vehicle, viz., Tempo Traveller Ambulance, bearing Registration No.TN-09-AE-7327, was seized by the respondent police in Crime No.6 of 2021, under Sections 20(b)(ii)(C), 29(1) and 25 of NDPS Act. The petitioner claiming himself as the owner of the vehicle, filed a petition before the Special Court under Essential Commodities Act, Thanjavur, for return of the vehicle in Cr.M.P.No.624 of 2021. That petition was dismissed by the Special Court under Essential Commodities Act, Thanjavur, on 12.08.2021. Against the same, the petitioner has preferred this Criminal Revision.



3. On the side of the petitioner, it is stated that the petitioner is not an accused in this case and the case was registered against the accused Nos.1 to 4 for transporting 28 Kgs of Ganja in an Ambulance Van. The vehicle is kept in the open place and the value of the vehicle is getting spoiled due to its exposure to sun and rain. The petitioner is not aware of the transit of Ganja. The vehicle is in custody for the past 8 months and prayed the vehicle to be returned to the petitioner.

4. On the side of the prosecution, it is stated that the husband of the petitioner is A4 in the case and he is the driver of the vehicle. 28 Kgs of Ganja was transported from Chennai to Vedharanyam, using an Ambulance for an illegal purpose is serious in nature and prayed the petition to be dismissed.

5. On the side of the petitioner, it is stated that the husband of the petitioner was not aware of the transit of Ganja in the vehicle. The vehicle was rented and the petitioner's husband was engaged only as a Driver. It was the other accused, who transported the Ganja, without the knowledge of the petitioner's husband. Dismissing a petition for return of the vehicle for interim custody is against the dictum of the Hon'ble Supreme Court reported in 2002(10) SCC 283 (Sundarbhal Ambalal Desai V. State of Gujarat). This Court, in Crl.R.C.No.905 of 2019, dated 25.09.2019, has granted interim custody of the vehicle in a similar case.

6. On the side of the prosecution, it is stated that in the case cited by the petitioner, in Crl.R.C.No.905 of 2019, the quantity of Ganja is only 1.900 Kgs and the vehicle involved is only a Maruti Car and not an Ambulance. Using an Ambulance for illegal purpose is an offence serious in nature.

7. If the vehicle is kept in the open place, the value of the vehicle will be deteriorated, due to the exposure to climatic conditions. Hence, this Court is inclined to allow the petition with certain conditions.

8. Accordingly, this Criminal Revision Case is allowed and the order, dated 12.08.2021, made in Cr.M.P.No.624 of 2021, on the file of the Special Court under Essential Commodities Act, Thanjavur, is hereby set aside and the vehicle is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

(i) The petitioner shall deposit the original Registration Certificate of the vehicle before the Special Court under Essential Commodities Act, Thanjavur;



(ii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Crime No.6 of 2021 on the file of the learned Special Court under Essential Commodities Act, Thanjavur, within a period of four weeks from the date of receipt of a copy of this order along with a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a like sum;

(iii)The petitioner shall not alienate and shall not make any alterations in the vehicle;

(iv)The petitioner shall produce the vehicle before the Court and before the respondent as and when required, by the Court and by the respondent.

Sd/-

Assistant Registrar(CS-I)

// True Copy //

/ /2021

Sub Assistant Registrar(CS)

Ls

NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.

To

- 1.The Special Court under Essential Commodities Act,
Thanjavur
- 2.The Inspector of Police,
NIB CID Police Station,
Nagapattinam.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

CrI. R.C. (MD) No.833 of 2021
17.11.2021

ps (CO)

TR(30.11.2021) 3P 4C