



WEB COPY

Crl.R.C.No.1352 of 2



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.09.2022

Coram:

THE HONOURABLE **MR. JUSTICE P.VELMURUGAN**

Criminal Revision Case No.1352 of 2022

M.Ganesan

... Petitioner

Vs.

The State,
Rep., by Inspector of Police,
Kodungaiyur Police Station,
Chennai District,
Crime No.325 of 2022

... Respondents

Prayer : Criminal Revision filed under Section 397 read with 401 of Criminal Procedure Code, praying to set aside the order dated 20th July 2022 passed in C.M.P.No.2329 of 2022 on the file of learned Principal Special Court under EC & NDPS Act, Chennai -104, and order to return of petitioner's vehicle bearing registration No.TN-05-CA-0754, Bajaj RE LPG Auto 180BSIV Golden Yellow Color, seized by the respondent connected with the crime No.325 of 2022 (on the file of the respondent).

For Petitioner : Mr.S.Thirugnanam

For Respondent : Mr.S.Sugendran APP



WEB COPY

Crl.R.C.No.1352 of 2



ORDER

The present Criminal Revision Petition has been filed to set aside the order dated 20th July 2022 passed in C.M.P.No.2329 of 2022 on the file of learned Principal Special Court under EC & NDPS Act, Chennai -104, and to return of petitioner's vehicle bearing registration No.TN-05-CA-0754, Bajaj RE LPG Auto 180BSIV Golden Yellow Color, seized by the respondent.

2. The respondent Police registered the case against three persons viz., (Prabhu, Jaffar and Surya), for the offence under Section 22(b), 25, 29(1) of NDPS Act, 1985 in Crime No.325 of 2022.

3. The petitioner is the owner of the vehicle bearing registration No.TN-05-CA-0754, Bajaj RE LPG Auto 180BSIV, and he has let out his vehicle to one Mr.Prabhu/accused who was arrested by the respondent police for the alleged offences under Section 22(b), 25, 29(1) of NDPS Act in Crime No.325 of 2022 and seized the contraband and also the vehicle (Auto). The petitioner, who is the owner of the vehicle had filed Crl.M.P.No.2329 of 2022 under Sections 451 & 457 of Cr.P.C for return of vehicle before the Principal



Special Court under EC & NDPS Act, Chennai. The Court below by an order dated 20.07.2022 dismissed the same by stating that the petitioner has not produced any documents to support his contentions and there was no document with the petitioner to show that the the accused person had only hired his vehicle. Challenging the same, the present Criminal Revision case has been filed.

4. The learned counsel appearing for the petitioner would submit that the petitioner is the owner of the vehicle and he has only let out his Auto to the accused and the petitioner is an innocent person and he is no way connected with the offences as alleged and now, the said vehicle is kept at the respondent Police station and the same is exposed to sun and rain and the life of the said vehicle is getting deteriorated. Further, the learned counsel would submit that the petitioner was not aware that the accused misused his vehicle for smuggling the prohibited drugs and the same was involved in the criminal offence and eventhough he approached the Court below, the learned Principal Special Judge also failed to consider the same. The learned counsel further would submit that the petitioner is not in a position to ride the vehicle (auto) and therefore, he had let out his vehicle to third party and therefore, the



petition has to be allowed and the vehicle has to be returned.

WEB COPY

5. The learned Additional Public Prosecutor would submit that totally three persons were involved for the offence under Section 22(b), 25, 29(1) of NDPS Act, 1985 in Crime No.325 of 2022. Further, the learned Additional Public Prosecutor would submit that the accused was alleged to have used the said vehicle for illegal transportation of contraband. The Investigating Officer seized the vehicle with the recovery mahazar as per Form 91 and the same was produced before the Court below. Further the learned Additional Public Prosecutor would submit that the investigation is in preliminary stage and therefore, the Court below rightly rejected the request of the petitioner.

6. Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing on behalf of the respondent and perused the materials available on record.

7. During the pendency of the charge sheet, the return of vehicle is purely the discretionary power of the Courts below. In the present case, admittedly, the case was registered in Crime No.325 of 2022 for the offence



under Section 22(b), 25, 29(1) of NDPS Act on the file of the respondent Police. The vehicle was seized with contraband and the investigation is in preliminary stage. If the vehicle is handed over to the owner, the vehicle may be used for the same purpose and hence, the vehicle has to be subjected to confiscation.

8. Therefore, considering the facts and circumstances of the case and the serious nature of the offence, this Court is not inclined to interfere with the order passed by the learned Principal Special Judge and accordingly, the Criminal Revision is dismissed.

28.09.2022

Index :Yes/No
Internet:Yes/No
pbn



WEB COPY

Crl.R.C.No.1352 of 2



P.VELMURUGAN,J.

Pbn

To

- 1.learned Principal Special Court under EC & NDPS Act, Chennai -104,
- 2.Inspector of Police, Kodungaiyur Police Station, Chennai District,
- 3.The Public Prosecutor, Madras High Court Chennai.

Criminal Revision Case No.1352 of 2022

28.09.2022