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Crl.R.C.No.106 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.106 of 2023

R.Veeramani.

... Petitioner

-VS-

State Rep.by
The Inspector of Police,
Kurinjpadi Police Station,
Cuddalore District.
Crime No.382 of 2022

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 and 401 of Cr.P.C., pleased to set aside the order in Crl.M.P.No.2076 of 2022 in Crime No.382 of 2022 on the file of the District Munsif-cum-Judicial Magistrate Court Kurinjpadi, dated 26.12.2022 and to return of the vehicle to the petitioner herein and pass order.

For Petitioner	: Mr.P. Thirumalaivasan
For Respondent	: Mr.C.E.Pratap Govt. Advocate (Crl.Side)



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ORDER

Challenging the order of dismissal of the petitioner's application filed to return the vehicle passed by the District Munsif-cum-Judicial Magistrate, Kurinjipadi, in Crl.M.P.No.2076 of 2022, in crime No.382 of 2022 dated 26.12.2022, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the Mahindra Scorpio S1022IH 4STR MT B bearing registration No.TN-21-BY-2225. The police arrested A1 and seized the said vehicle belongs to the petitioner along with one tractor used by the accused. A1, in this case, took the car of the petitioner only as a friend and used the car for committing the offence. The petitioner is not connected with the crime. Hence, seeks to set aside the order passed by the trial Court.

3. Further, the learned counsel for the petitioner contended that the petitioner is the owner of the Scorpio S1022IH 4STR MT B bearing registration No.TN-21-BY-2225. The petitioner does not commit any similar type of offence



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and he is ready to abide any condition imposed by this Court. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated.

4. When the matter is taken up, the Learned Government Advocate (Crl.Side) for the respondent submitted that the car has been used by the accused person for committing the offence. Hence, the trial Court rightly dismissed the petition and pleaded to dismiss the revision petition.

5. Further, the Learned Government Advocate (Crl.Side) for the respondent objected to return the vehicle to the petitioner and pleaded that to dismiss the revision petition.

6. I have considered the submissions made by the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.side) for the respondent. Records perused.

7. On perusal of the records, the fact reveals that the respondent



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police seized the vehicle S1022IH 4STR MT B bearing registration No.TN-21-BY-2225 in connection with the case registered in Crime No.382 of 2022 for the offence under Section 379 of I.P.C. The petitioner claimed that he is the owner of the vehicle. Further, he contended that the accused used the car of the petitioner for committing the offence.

8. Further, on perusal of the F.I.R in crime No.382 of 2022, the fact reveals that a case has been registered upon the complaint given by one Kayalvendhan, in which, he had stated that, he had parked his trailer at Kurinjipadi Railway Station Bus stop near Annai Abirami Nagar, for the past three years. On 05.09.2022, he parked the vehicle. Again, on 07.09.2022, he and his brother went to the place and saw the vehicle and again on the same day, they went to see the vehicle, the vehicle was found missing. After searching the vehicle, he lodged the complaint on 15.09.2022. Subsequently, on investigation, the police arrested the accused and seized the vehicle used by the accused for the commission of the offence. Since, the vehicle is kept in open space, it will loss its value and no purpose will be served. Admittedly, the car is in the custody of the



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Court in R.P.R No.241 of 2022. The trial Court dismissed the petition on the ground that it will cause hindrance for the investigation, the reason stated by the trial Court is unsustainable.

9. At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Leave Petition (Crl.)2745 of 2022 dated 01.10.2002*** and the relevant portion is extracted hereunder:-

Vehicles

17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

18. In case where the vehicle is not claimed by the



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*accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. **In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.***

Therefore, as per the ratio laid down by the Hon'ble Apex Court, this Court on considering the nature of offence and also taking into account the fact that the vehicle is not involved in any other case similar in nature, this Court is inclined to allow the Criminal Revision Case.

10. Accordingly, the impugned order passed by the Court below is set aside



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and the respondent police is directed to return the vehicle bearing Registration No. TN-21-BY-2225 to temporary custody of the petitioner after preparing detailed panchanama of such vehicle on complying the following conditions:-

- i. The petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
 - ii. The petitioner shall not alienate or encumber the vehicle in any manner;
 - iii. **The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) before the District Munsif-cum-Judicial Magistrate, Kurinjipadi.**
 - iv. The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
 - v. The petitioner shall take photograph of the vehicle; and produce the same to the court.
 - vi. The petitioner shall also produce the vehicle as and when required before the Court below and before the respondent police.
- 11.** Accordingly, the Criminal Revision Case is allowed.

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V.SIVAGNANAM, J.,

bsm

To,

1. The District Munsif-cum-Judicial Magistrate, Kurinjipadi.
2. The Inspector of Police, Kurinjipadi Police Station, Cuddalore District,
3. The Public Prosecutor, High Court of Madras, Chennai.

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