



Crl.R.C.No.387 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.387 of 2023

Kannan

...

Petitioner

Versus

State rep.by
The Inspector of Police,
Sulur Police Station,
Coimbatore District
Crime No.467 of 2022

...

Respondent

PRAYER: Criminal Revision Case filed under Section 397 & 401 of the Criminal Procedure Code, 1973 to set aside the order passed in Crl.M.P.No.4300 of 2022 dated 15.12.2022 on the file of the learned Judicial Magistrate Court, Sulur.

For Petitioner : Mr.S.N.Arun Kumar

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case has been filed challenging the impugned order dated 15.12.2022 passed in Crl.M.P.No.4300 of 2022 by



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the learned Judicial Magistrate, Sulur.

2. The respondent police registered a case against this petitioner along with two other persons viz., Ponramesh & Ramesh in Crime No.467 of 2022 for the offences punishable under Sections 24(1) of Cigarette and other Tobacco Products Act, 2003 and 328 of Indian Penal Code, 1860, in which, the petitioner is the second accused. The respondent police arrested them and seized 102 kilograms of Banned Tobacco Products. While arresting, the respondent police also seized the Omni Van bearing registration No. TN-36-AF-9776, belonging to the petitioner/A2.

3. The petitioner filed an application seeking interim custody of the subject vehicle before the Judicial Magistrate, Sulur in CMP.No.4300 of 2022, which was dismissed by the Trial Court vide the impugned order without assigning valid reasons. Against which, the present Criminal Revision Case has been filed.



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4. The learned counsel for the petitioner submitted that no purpose will be served in keeping the vehicle under the custody of respondent police and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. The petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the Omni Van bearing registration No.TN-36-AF-9776 and he is ready to obey any condition imposed on him by this Court.

5.The learned Government Advocate (Crl.side) for the respondent police registered a case against this petitioner along with two other persons viz., Ponramesh & Ramesh in Crime No.467 of 2022 for the offences punishable under Sections 24(1) of Cigarette and other Tobacco Products Act, 2003 and 328 of Indian Penal Code, 1860 in which the petitioner is the second accused and seized the Omni Van and produced before the Court and also consented that the vehicle has not involved in the similar type of



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case previously. There is no antecedent in this regard against this petitioner.

6.I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.

7.On perusal of the records, the fact reveals that the respondent police registered a case against this petitioner along with two other persons viz., Ponramesh & Ramesh in Crime No.467 of 2022 on 07.08.2022 for the offences punishable under Sections 24(1) of Cigarette and other Tobacco Products Act, 2003 and 328 of Indian Penal Code, 1860 in which the petitioner is the second accused. Further, on perusal of FIR, it is seen that on 07.08.2022, on receiving secret information about illegal transportation of Narcotic Substance, the respondent police has conducted a vehicle checkup near Perumal Koil, Appanayakampatti, Coimbatore and caught the persons and on enquiry, the respondent police found possessions of 18 Kgs of Ganesh, 48 Kgs of Hans, 60 Kgs of Vimal, 8 Kgs of Coollip and 14 Kgs



of V1 and seized the Omni van bearing registration No.TN-36-AF-9776.

8.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 Lave 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 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.***



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Therefore, as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that keeping the vehicle idle in the open space, will diminish its nature and lose its value and no purpose will be served. As such, 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 previously, this Court is inclined to allow the Criminal Revision Case.

9. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 15.12.2022 passed in Crl.M.P.No.4300 of 2022 by the Judicial Magistrate, Sulur is set aside. The respondent police is directed to return the vehicle to the owner of the vehicle on 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.1,00,000/- (Rupees one lakh only) before the Judicial Magistrate, Sulur.



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- 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
- vi.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

Index: Yes/No
dhk

06.03.2023

To

1. The Judicial Magistrate
Sulur

2. The Inspector of Police,
Sulur Police Station,
Coimbatore District

3.The Public Prosecutor,
Madras High Court.



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V.SIVAGNANAM, J.,

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