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Crl.R.C.No.366 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.03.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.366 of 2023

Pachiyammal

... Petitioner

Vs.

State Rep by the Inspector of Police,
F-1 Chintadripet Police Station,
Chennai.
Crime No.199/2022

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, 1973 to call for the records on the file of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act Cases, Chennai in Crl.M.P.No.93 of 2023, dated 31.01.2023 and set aside the Order.



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For Petitioner : Mr.R.Anbu

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

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act Cases dated 31.01.2023 made in Crl.M.P.No.93 of 2023 and to return the vehicle Honda Motor Cycle Dio Drum bearing registration No. TN 06 AB 8397 to the petitioner /owner of vehicle.

2. It is the case of the prosecution that on 04.08.2022, when the respondent police along with their officials intercepted the Hone Motor Cycle Dio Drum bearing registration No.TN 06 AB 8397 driven by the son of the petitioner, they found him in possession of narcotic drugs. Hence a case in Crime No.199/2022 was registered under Sections 8[c], 22[b], 25



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and 29[i] of Narcotic Drugs and Psychotropic Substances Act 1985 and the vehicle was seized.

3. The petitioner is the owner of the above said Honda Motor Cycle Dio Drum and she filed a petition in Crl.M.P.No.93 of 2023 before the Trial Court to release the vehicle to her. But it was dismissed, vide order dated 31.01.2023 on the ground that if the vehicle is returned, the accused may involve the vehicle in similar offence. Hence, challenging the above said order, the petitioner filed the present Revision case.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of Hone Motor Cycle Dio Drum bearing registration No.TN 06 AB 8397. He further submitted that the vehicle was purchased only for her daughter-in-law employment purpose, hence, if the vehicle is not returned, she would be put to irreparable loss and hardship. He further submitted that if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. He further submitted that the vehicle is not involved



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in any case similar in nature and the petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also she will produce the vehicle, as and when required either before the respondent police or before the Trial Court. Hence, prayed to return of the vehicle.

5. The learned Government Advocate (Crl.Side) submitted that, the petitioner is owner of the Hone Motor Cycle Dio Drum bearing registration No.TN 06 AB 8397 and since the above said vehicle was used to transport Narcotic drugs, it was seized and hence, he objected to return the vehicle to him.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and I have perused the materials on record.

7. A perusal of the records shows that, the respondent police registered a case in Crime No.199/2022 for the offences under Sections



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8[c], 22[b], 25 and 29[i] of Narcotic Drugs and Psychotropic Substances Act 1985 with regard to transportation of narcotic drugs. Further, it reveals from the records that the son of the petitioner is the accused in this case and the petitioner is the owner of the Hone Motor Cycle Dio Drum bearing registration No.TN 06 AB 8397 and it was seized by the respondent police. The Trial Court dismissed the petition in Crl.M.P.No.93 of 2023, filed by the petitioner, on the ground that if the vehicle is returned, if the vehicle is returned, the accused may involve the vehicle in similar offence. It is the contention of the learned counsel for the petitioner that the petitioner is ready to give guarantee and security for returning the vehicle and if the vehicle is being kept idle in open space, it would cause damage to the vehicle.

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.



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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.***

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,



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considering the nature of offence, this Court is inclined to allow the Revision Petition.

9. Accordingly, this Criminal Original Petition is allowed and the impugned order passed by the Trial Court 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.75,000/- (Rupees Seventy five thousand only) before the Principal Special Judge, Principal Special Court under EC & NDPS Act Cases.
- 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



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

16.03.2023

Index: Yes/No
Internet: Yes/No

vrc

To

1. Principal Special Judge, Principal Special Court under EC & NDPS Act Cases.
2. The Inspector of Police, F-1 Chintadripet Police Station, Chennai.
3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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