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Crl.R.C.No.347 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.347 of 2023

B.Sridhar

...

Petitioner

/vs/

The State
Rep.by Inspector of Police,
D-1, Thirutani Police Station,
Tiruttani, Thiruvallur District-631 201.
(Cr.No.423 of 2022)

...

Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C. to set aside the order passed in Crl.M.P.No.6542 of 2022 dated 04.01.2023 on the file of the Principal Special Judge, Special Court under EC & NDPS Act, Chennai.

For Petitioner

...

Mr.B.Tamilarasan

For Respondent

...

Mr.R.Vinothraja
Government Advocate (Crl.side)

ORDER

The Criminal Revision Case has been filed to set aside the order passed in Crl.M.P.No.6542 of 2022 dated 04.01.2023 on the file of the



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Principal Special Judge, Special Court under EC & NDPS Act, Chennai.

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2.The learned counsel for the petitioner contended that the petitioner is not an accused in this case and he is the friend of the accused/A1 namely Pruthvi Raj Varma @ Abi. The respondent police registered a case in Crime No.423 of 2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B) of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 328 of IPC and arrested the accused persons and seized Ganja weighing 1 kg and 900 kg alongwith Pulsar Two Wheeler bearing registration no.TN 20 CT 2283 from them. The petitioner is the owner of the Pulsar Two Wheeler bearing registration no.TN 20 CT 2283 and he is not being connected with the case.

3.Further, 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



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will produce the vehicle, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the vehicle and he is ready to obey any condition imposed on him by this Court.

4.The learned Government Advocate (Crl.side) for the respondent filed a counter and objected to return the vehicle to the petitioner and submitted that there is no previous case against this petitioner and the vehicle is not involved in the similar type of case previously. There is no bad antecedent in this regard against this petitioner.

5.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.

6.On perusal of the records, the fact reveals that a case in Crime No.423 of 2022 was registered by the respondent police for the offences punishable under Sections 8(c), 20(b)(ii)(B) of the Narcotic Drugs & Psychotropic Substances Act, 1985 and Section 328 of IPC and arrested



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the accused persons for illegal possession of Ganja weighing 1 kg and 900 kg alongwith Pulsar Two Wheeler bearing registration no.TN 20 CT 2283 from them. Thereafter, the respondent police seized Ganja weighing 1 kg and 900 kg alongwith the two wheeler namely Pulsar Two Wheeler bearing registration no.TN 20 CT 2283 and arrested the accused persons and remanded to judicial custody.

7.Considering the nature of the case that the contraband is not seized from the petitioner and he is the owner of the Two Wheeler and 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 and the value of the vehicle will be diminished and continuing to keep the vehicle in open air would make the vehicle unusable, this Court is inclined to grant interim custody of the vehicle to the petitioner.

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.***

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 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 04.01.2023 passed in Crl.M.P.No.6542 of 2022 by the Principal Special Judge, Special Court under EC & NDPS Act 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.50,000/- (Rupees Fifty thousand only) before the Principal Special Judge, Special Court under EC & NDPS Act, Chennai – 104.
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,



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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.

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Internet : Yes/No

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To

1.The Principal Special Judge,
Special Court under EC & NDPS Act, Chennai.

2.The Inspector of Police,
D-1, Thirutani Police Station,
Tiruttani, Thiruvallur District-631 201
(Cr.No.423 of 2022)

3.The Public Prosecutor,
High Court, Madras.



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V.SIVAGNANAM ,J.

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