



Crl.R.C.No.400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.R.C.NO.400 OF 2023

Ranga Ganesan

... Petitioner

Vs.

The State Rep. By
Inspector of Police
R-5, Virugambakkam Police Station
Chennai.
(Filed on Cri.No.641/22)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, 1973, to set aside the dismissal order passed by the Principal Special Judge (NDPS & EC Act) at in Crl.M.P.No.82 of 2023 dated 20.01.2023 and further directing the learned Principal Special Judge, (NDPS & EC Act) Chennai to return the petitioner's two wheeler bearing Registration No.TN10-BM-4600, YAMAHA R-15, MAT Black to the petitioner.

For Petitioner : Mr.S.Senthil Kumar

For Respondent : Mr.R.Vinoth Raja
Government Advocate (Criminal Side)



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ORDER

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This Criminal Revision Case has been filed challenging the impugned order dated 20.01.2023 passed in Crl.M.P.No.82 of 2023 by the learned Principal Special Judge (NDPS & EC Act) and for a direction to return the three wheeler bearing Registration No.TN10-BM-YAMAHA R-15, MAT Black, to the petitioner.

2.The learned counsel for the petitioner submitted that the petitioner is not an accused and she is only the mother of the friend of first accused. The respondent police had registered a case in Crime No.614 of 2022 on 14.09.2022 for the offences punishable under Section 8(c) read with 20(b) (ii) (B), 22(b) of the Narcotic Drug and Psychotropic Substances Act, 1985 (NDPS). The respondent police arrested Sarath @ Sarath Kumar (A1) and Mathan (A2) and seized Ganja weighing 1.200 grams, Redmi Mobile Phone, one two wheeler without number and another two wheeler bearing Registration No.TN10-BM-4600 from the first accused under the cover of seizure mahazar. The petitioner is the owner of the vehicle.

3.Further, the learned counsel for the petitioner submitted that



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

4.The learned Government Advocate (Criminal 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 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 (Criminal Side) for the respondent.

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



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police The respondent police had registered a case in Crime No.614 of 2022

on 14.09.2022 for the offences punishable under Section 8(c) read with 20(b)

(ii) (B), 22(b) of the Narcotic Drug and Psychotropic Substances Act, 1985

(NDPS). The respondent police arrested Sarath @ Sarath Kumar (A1) and

Mathan (A2) and seized Ganja weighing 1.200 grams, Redmi Mobile Phone,

one two wheeler without number and another two wheeler bearing

Registration No.TN10-BM-4600 from the first accused under the cover of

seizure mahazar. The petitioner is the owner of the vehicle. During the course

of investigation, the seized 1.200 grams Ganja, Redmi Mobile Phone, one

two wheeler without number and another two wheeler bearing Registration

No.TN10-BM-4600 has been produced before the Special Court for EC &

NDPS Act Cases, Chennai and the same was taken on file and assigned

A.No.627 of 2022, B.No.278 of 2022, dated 22.09.2022 and the same was

returned to the respondent police for safe custody.

7.Considering the nature of the case that the contraband is not seized from the petitioner and she is the owner of the two wheeler and the petitioner is ready to give guarantee and security for returning the vehicle and



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if the vehicle is being kept idle in open space, it would cause damage to the vehicle and the value of the vehicle is diminished and continuing to keep the vehicle in open air would make the vehicle unusable, this Court is inclined to grant the relief sought for by 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 [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



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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 Supreme 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



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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 20.01.2023 passed in Crl.M.P.No.82 of 2023 by the Principal Special Judge under EC & NDPS Act, Chennai, is set aside. The respondent police is directed to return the two wheeler bearing Registration No.TN10-BM-4600 Yamaha R-15 Mat Black, to the petitioner / owner of the vehicle on the following conditions:

- (i) the petitioner shall prove her 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 Principal Special Court under EC & NDPS Act,



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Chennai – 104.

(iv) the petitioner shall give an undertaking that she 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.

21.03.2023

Index : Yes/No

Internet : Yes/No

Note : Issue order copy on 27.03.2023

TK

To

8/10



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1.The Principal Special Judge
Principal Special Court under EC & NDPS Act
Chennai – 104.

2.The Inspector of Police
R5, Virugambakkam Police Station,
Chennai.

3.The Public Prosecutor
High Court of Madras
Chennai.



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V.SIVAGNANAM, J.

TK

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