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Crl.R.C.No.487 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.487 OF 2023

Chandru

... Petitioner

Vs.

State Rep. By
The Inspector of Police
T-16, Chemmancherry Police Station
Chennai.
Crime No.190 of 2022

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 read with 401 of the Criminal Procedure Code, 1973, to set aside the order dated 11.01.2023 made in Cr.M.P.No.4797 of 2022 on the file of Principal Special Court under EC and NDPS Act, Chennai and consequently return the Cell Phone.

For Petitioner : Mr.R.Parthiban

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



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ORDER

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Challenging the order dated 11.01.2023 dismissing the petition filed by the petitioner under Section 451 r/w. 457 of Cr.P.C, passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, to return the I-Phone II, to the petitioner, the present Criminal Revision has been filed.

2.The learned counsel for the petitioner submitted that the petitioner was arrayed as an accused in Crime No.190 of 2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of NDPS Act, 1985, as he was found in illegal possession of articles which were banned by the Tamil Nadu Government. While he was arrested, the respondent police seized his mobile phone viz., I-phone 11 from the petitioner. He further submitted that the said mobile phone is no way connected with the offence and he is not having previous bad antecedents. The trial court, without considering the above fact, dismissed his petition seeking return of above said cell phone. Hence he seeks to set aside the impugned order and to allow the criminal revision case.



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3.The learned Government Advocate (Criminal Side) submitted that the petitioner is the second accused and the respondent police registered a case in Crime No.190 of 2022 for the offences punishable under Sections 8(c), 20(b)(ii)(B), 25 and 29(1) of NDPS Act, 1985. At the time of arresting the petitioner, the respondent police, while seizing the banned articles, seized his i-phone 11 also. The same was produced before the trial court and now it is under the custody of Court below. Thus, he objected to return of cell phone.

4.Heard both sides and perused the materials available on record.

5.Perusal of records reveals that the petitioner was arrayed as an accused in Crime No.190 of 2022 by the respondent police for the offences 8(c), 20(b)(ii)(B), 25 and 29(1) of NDPS Act, 1985. On 24.07.2022, he was arrested and his mobile phone was seized along with other banned articles and the same was remanded before the Special Court for NDPS Act, Chennai. According to the petitioner, the cell phone is no way connected with the offence and also the petitioner is having no previous bad antecedents.



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6.Considering the nature of the offence and the cell phone is not connected with the offence committed by the petitioner and also the fact that the petitioner is not having any previous bad antecedents, this Court is inclined to grant custody of cell phone to the petitioner.

7.Accordingly, the impugned order passed by the Court below is set aside and the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai is directed to return the I-phone 11 to the petitioner on complying the following conditions:-

- (i) the petitioner shall prove his ownership of the I-phone 11;
- (ii) the petitioner shall not alienate or encumber the mobile phone 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, Principal Special Court under EC & NDPS Act, Chennai.



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(iv) the petitioner shall also produce the mobile phone as and when required before the court below and before the respondent police.

8. Accordingly, the Criminal Revision is allowed.

21.03.2023

Index : Yes/No
Internet : Yes/No
TK

To

1. The Principal Special Judge
Principal Special Court under EC & NDPS Act
Chennai – 104.
2. The Inspector of Police
T-16, Chemmancherry Police Station
Chennai.
3. The Public Prosecutor
High Court of Madras
Chennai.

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V.SIVAGNANAM, J.

TK

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