



WEB COPY



Crl.R.C.No.535 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 28.03.2023

CORAM

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.R.C.No.535 of 2023

E.Arulselvi

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
T-3 Pallavaram Police Station,
Chennai.
(Crime No.830/2022)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records in Crl.M.P.No.927 of 2023 dated 20.02.2023 on the file of the learned Principal Special Judge for EC & NDPS Act, Chennai and set aside the same.

For Petitioner : Mr.P.S.Amalraj

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



WEB COPY



Crl.R.C.No.535 of 2023

ORDER

This Criminal Revision Case has been filed to set aside the order dated 20.02.2023 passed in Crl.M.P.No.927 of 2023 by the learned Principal Special Judge for EC & NDPS Act, Chennai.

2. The case of the prosecution is that on 23.10.2022 at about 08.45 hours, when Tr.Munusamy, the Sub Inspector of Police was in Station duty, at that time he received a secret information about the illegal transport of Narcotic Substance after receiving the secret information Tr.Munusamy, the Sub Inspector of Police went along with his police team (i.e) Tr.Alagu, HC-35396, Tr.Selvakani, Gr.II PC-51380 & Tr.Alex Raja, Gr.II PC-42624 went to SOC (i.e) 200 feet Radian Road, Vel University, near Signal and conducted a vehicle check up, at that time the accused persons Tr.Krishanth/A-1, A-2/Roshan Shiva, Keerthivasan/A-3, Niranjan/A-4 came in Two Wheeler and Car bearing registration Number TN 06 5050 Honda CIVIC Car and TN 31 BL 8825 FZ Yamaha. Thereafter the respondent



Crl.R.C.No.535 of 2023

police stopped the vehicle and caught the accused and enquired them and found 1.200 kg Ganja LSD Stamp-10 & 3 gram Methamphetamine in their possession. The respondent police seized 1.200 kg Ganja, LSD Stamp-10 & 3 gram Methamphetamine, car bearing registration number TN 06 5050 Honda CIVIC car and TN 31 BL 8825 FZ Yamaha were seized under the cover of seizure mahazar in the presence of witnesses. The said Ganja is listed as Serial No.55 in the Table of section 2 of NDPS Act. Based on the complaint, a case was registered in T-3 Pallavaram Police Station, Crime No.830 of 2022 u/s 8(c), r/w 20(b)(ii) (B), 29(1), 25 of NDPS Act, 1985 against the accused on 23.10.2022 at about 12.00 hours. During the pendency of the investigation, the petitioner filed a petition before the learned Principal Special Judge for EC & NDPS Act, Chennai, in Crl.M.P.No.927 of 2023 under Sections 451 of Cr.P.C. for return of vehicle and the learned Magistrate by order dated 20.02.2023 dismissed the same. Challenging the said order, the petitioner has filed the present revision before this Court.



Crl.R.C.No.535 of 2023

WEB COPY

3. The learned counsel for the petitioner submitted that the petitioner is the owner of the Honda CIVIC ar bearing Registration No.TN 06-5050. He further submitted that he is added an accused and the accused is the petitioner's son. There is no previous case against this petitioner as well as the vehicle was not involved in any other case, similar in nature.

4. The learned counsel further 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. He further submitted that the petitioner is ready to abide by any condition imposed by this Court 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 vehicle to the petitioner.

5. The learned Government Advocate (Crl.Side) submitted that the petitioner is the owner of the Car bearing Registration No.TN 06-5050 and



Crl.R.C.No.535 of 2023

it was seized along with 1.200 kgs Ganja, LSD Stamp-10 & 3 gram Meth.

He further submitted that the Car and the two wheeler were used to transport Ganja and Methamphetamine illegally and if the vehicle is returned to the petitioner, there are every chances to use it for committing similar type of offence. Hence, he objected to return the vehicle to the custody of the petitioner.

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

7. On a perusal of the records, it reveals that the petitioner is the owner of the Car bearing Registration No.TN 06-5050 and it was seized by the respondent police. The Trial Court dismissed the petition in Crl.M.P.No.927 of 2023, filed by the petitioner, on the ground that if the vehicle is returned to the petitioner, it may affect the investigation and the vehicle may also be used in similar nature of offence. It is the contention of



Crl.R.C.No.535 of 2023

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* has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.

9. Considering the above aspects and also 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 lost 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, this Court is inclined to allow the Criminal Revision Case.



Crl.R.C.No.535 of 2023

10. Accordingly, this Criminal Revision Case 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 Court shall prepare detailed panchanama of the vehicle.

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove her ownership and the respondent police, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(iii) The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;

(iv) The petitioner ***shall execute a bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) to the satisfaction of the learned Principal Special Judge for EC & NDPS Act, Chennai.***



Crl.R.C.No.535 of 2023

(v)The petitioner shall also give an undertaking that she will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below

28.03.2023

Index: Yes/No
Internet: Yes/No
rpl

To

1. The Principal Special Judge for EC & NDPS Act,
Chennai.
2. The Inspector of Police,
T-3 Pallavaram Police Station,
Chennai.
3. The Public Prosecutor,
Madras High Court,
Chennai.



WEB COPY



CrI.R.C.No.535 of 2023

V.SIVAGNANAM, J.,

rpl

CrI.RC No.535 of 2023

28.03.2023