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CrI.R.C.No.701 of 2023



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.05.2023

CORAM

THE HON'BLE MR.JUSTICE A.A.NAKKIRAN

CrI.R.C.No.701 of 2023

Valarmathi

W/o.Nitheswaran

... Petitioner

Vs.

The State Represented by
Inspector of Police,
Sevvapet Chatram Police Station.
Avadi District.
(Crime No.447 of 2022)

... Respondent

Prayer: Criminal Revision Case filed under Sections 397 & 401 of Cr.P.C., pleaded to set aside the order in CrI.M.P.No.1918 of 2023 in Crime No.447 of 2022 dated 29.03.2023 passed by the learned Principal Special Judge, Principal Special Court Under EC & NDPS Act, Chennai – 104 with respect to Crime No.447 of 2022 consequently direct the respondent to release the petitioner's vehicle Honda Motor Cycle and Scooter bearing Reg.No.TN-12-AS-7023.



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For Petitioner : Mr.S.N.Subramani
For Respondent : Mr.S.Vinoth Kumar
Government Advocate
(Criminal Side)

ORDER

The present revision has been filed praying to set aside the order dated 29.03.2023 made in Crl.M.P.No.1918 of 2023 in Crime No.447 of 2022 on the file of the learned Principal Special Judge, Principal Special Court Under EC & NDPS Act, Chennai – 104 and to allow this revision petition by passing appropriate direction to the learned Principal Special Judge, to hand over the petition mentioned vehicle to the petitioner for interim custody.

2. The case of the petitioner is that the petitioner is the owner of the Honda Motor Cycle bearing Registration No.TN-12-AS-7023. In connection with crime No.447 of 2022, the respondent police recovered the said vehicle as a case property saying that the property was used for possession of Ganja. In the alleged offence, the petitioner herein is not added as an accused. The petitioner has nothing to do with the said case and due to such seizure, the said Honda Motor Cycle is in the custody of the respondent police. However, the said vehicle is exposed to all



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weather and thereby, the value of the vehicle is being drastically diminished that would only cause huge monetary loss to the petitioner and as such, the said vehicle of the petitioner may be ordered to be returned to the petitioner for interim custody. In this regard, the petition filed by the petitioner before the Principal Special Judge, Principal Special Court Under EC & NDPS Act, Chennai – 104, was dismissed by the order dated 29.03.2023. Therefore, the petitioner is before this Court.

3. The learned counsel appearing for the petitioner would contend that the petitioner herein is not an accused in the petition mentioned case. The alleged occurrence had happened without the knowledge of the petitioner. The petitioner is ready to abide any condition imposed by this Court. The trial court without considering the said aspect, suspecting that if the petition mentioned vehicle is returned to the petitioner, the same may be redeployed for the same purpose, dismissed the petition which is erroneous in law.

4. The learned Government Advocate (Criminal Side) appearing for the respondent police would submit that the petition mentioned vehicle had been used for illegal purpose (possession of Ganja) and the



same had been duly seized by the respondent police in the above said crime number and the reasons put forth by the petitioner are untenable and if the said vehicle is returned to the petitioner, the same would again be used for the similar illegal purpose and thereby objected the petition.

5. Submissions made by the counsels appearing on either side are considered.

6. Admittedly, the petitioner is not arrayed as an accused in the petition mentioned crime number. If the vehicle is kept in the police station, the value of the vehicle is being drastically diminished and that the same would only cause huge monetary loss to the petitioner.

7. 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 Leave 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 of 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."***



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8. 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 the vehicle is not involved in any other case similar in nature, this Court is inclined to allow the Criminal Revision Case.

9. Thus in the said circumstances, this Criminal Revision is allowed and the impugned order dismissing the petition for return of vehicle in Crl.M.P.No.1918 of 2023 dated 29.03.2023 passed by the learned Principal Special Judge, Principal Special Court Under EC & NDPS Act, Chennai – 104, is hereby set aside and that the interim custody of the vehicle in question, Honda Motor Cycle bearing registration No.TN-12-AS-7023 shall be handed over to the petitioner, subject to the following conditions:

- i) The petitioner is directed to produce the RC Book of the vehicle before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai – 104 and the same shall be retained by the Trial Court till the disposal of the trial or until further



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orders from this Court.

(ii) **The petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh only) with one surety for a like sum to the satisfaction of the learned Principal Special Judge, Principal Special under EC & NDPS Act, Chennai – 104.**

iii) The petitioner shall not alter or alienate the physical features of the vehicle in any manner and she will produce the vehicle as and when required by the Trial Court.

18.05.2023

Index : Yes / No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes / No

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A.A.NAKKIRAN, J.



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- To
- 1.The Principal Special Judge,
Principal Special Court Under EC & NDPS Act,
Chennai – 104.
 - 2.The Inspector of Police,
Sevvapet Chatram Police Station,
Avadi District.
 - 3.The Public Prosecutor,
High Court of Madras.

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