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Crl.R.C.No.771 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.06.2023

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.No.771 of 2023

Godwin

...

Petitioner

Vs

State by

Sub-Inspector of Police,

City Crime Branch Police Station,

Coimbatore.

...

Respondent

Prayer: Criminal Revision Case filed under section 397 r/w 401 Cr.P.C. to set aside the order dated 23.03.2023 passed in Crl.M.P.No.10817 of 2023 on the file of the learned Judicial Magistrate No.VII, Coimbatore and prayed for return of vehicle Porsche CAYENNE Diesel Black Colour Sedan bearing registration No. TN 41 AV 5555 seized by respondent and submitted in Court allotted P.R.No.49 of 2023.

For Petitioner : Mr.N.R.Kaushik

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



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ORDER

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Challenging the order dated 23.03.2023 passed in Crl.M.P.No.10817 of 2023 by the learned Judicial Magistrate No.VII, Coimbatore and return of vehicle Porsche CAYENNE Diesel Black Colour Sedan bearing registration No. TN 41 AV 5555 seized by respondent and submitted in Court P.R.No.49 of 2023, the criminal revision case has been filed.

2.The learned counsel for the petitioner submitted that the petitioner is the whole sale supplier of textile and ready made in the name and style as Sunshine Traders and he is also doing luxury cars renting business. The first accused viz., Vijay @ Karthikeyan approached the petitioner and representing that he is the Managing Director of Amazon Traders. For his business purpose, he needs a luxury car on rental basis, so, he requests PORSCHE CAYENNE DIESEL BLACK COLOUR SEDAN Car bearing registration No. TN 41 AV 5555 on rental. In this regard, the petitioner and the first accused have entered a Car Rental Agreement on 02.01.2023 on payment of security deposit for the period of three months. Further, he submitted that the respondent police has



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registered a case in Crime No.9 of 2023 for offences punishable under Sections 120 B, 408, 420 & 506(1) IPC against the first accused Vijay @ Karthikeyan and two others for cheating. In respect of the same, the car used by the first accused has also been seized. Thereafter, a petition was filed by the petitioner before the trial Court seeking interim custody of the Car and the same was dismissed stating that investigation has just begun and the amount said to be cheated by the accused persons is huge.

3.Further, the learned counsel for the petitioner contended that the petitioner is the owner of the car and he and his car is not involved in any crime and 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 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.



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4.The learned Government Advocate (Crl.side) submitted that the case has been registered by the respondent police against the accused persons in crime No.9 of 2023 for the offences punishable under Sections 120B, 408, 420 and 506(1) IPC. While arresting the accused persons, the respondent police seized the PORSCHE CAYENNE DIESEL BLACK COLOUR SEDAN Car bearing registration No. TN 41 AV 5555. In this case, investigation is pending and he fairly conceded that the petitioner is not an accused and the vehicle, which was taken by the first accused on hire by way of rental agreement dated 02.01.2023, is not involved in any previous case of similar in nature.

5.I have considered the matter in the light of the submissions made by the learned counsel for the petitioner as well as the learned counsel for the respondent.

6.On perusal of the records and FIR, it is seen that the petitioner is the whole sale supplier of textile and ready made in the name and style as Sunshine Traders and he is also doing luxury cars renting business. The first



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accused viz., Vijay @ Karthikeyan approached the petitioner and representing that he is the Managing Director of Amazon Traders. For his business purpose, he requests the petitioner to give PORSCHE CAYENNE DIESEL BLACK COLOUR SEDAN Car bearing registration No. TN 41 AV 5555 on rental basis for three months. In this regard, the petitioner and the first accused have entered a Car Rental Agreement on 02.01.2023 on payment of security deposit for the period of three months. Further, he submitted that based on the complaint in C.No.618 /PG-DC HQRS/CBE CITY/2022, dt 15.12.2022, the respondent police has registered a case in Crime No.9 of 2023 for offences punishable under Sections 120 B, 408, 420 & 506(1) IPC against the first accused Vijay @ Karthikeyan along with two others for cheating. In respect of the same, the car used by the first accused has also been seized. After seizure, the vehicle was produced before the court below in P.R.No.49 of 2023 and it has been kept under custody. Thereafter, a petition was filed by the petitioner before the trial Court seeking interim custody of the Car and the same was dismissed stating that investigation has just begun and the amount said to be cheated by the accused persons is huge.



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7. Further it reveals that the petitioner is the owner of vehicle and he is ready to give guarantee and security for returning the vehicle. If the vehicle is being kept in an 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. Further, the Honourable Supreme Court in the case of **Sunderbhai Ambalal Desai and others Vs.State of Gujarat in Special Leave 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.

8. 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 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 previously, this Court is inclined to allow the Criminal Revision Case.



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9. In the result, this Criminal Revision Case is allowed and the impugned order dated 23.03.2023 passed in C.M.P.No.10817 of 2023 by the Judicial Magistrate No.VII, Coimbatore, is hereby set aside. The interim custody of the PORSCHE CAYENNE DIESEL BLACK COLOUR SEDAN Car bearing registration No. TN 41 AV 5555 is ordered to be handed over to the petitioner, who is 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 execute a personal bond for a sum of Rs.60,00,000/-(Rupees Sixty lakhs only) before the Judicial Magistrate No.VII, Coimbatore and the learned Magistrate shall not insist for production of solvency certificate.
- iii. The Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle and such panchnama can be used in evidence.
- iv. the petitioner may take photograph of the vehicle and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- v. the petitioner shall not alienate or encumber the vehicle in any manner;



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vi.the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;

vii.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

Index: yes/no
Internet:yes/no
sms

13.06.2023

To

1.The learned Judicial Magistrate No.VII, Coimbatore.

2.State by
Sub-Inspector of Police,
City Crime Branch Police Station,
Coimbatore.

3. The Public Prosecutor,
Madras High Court.

V. SIVAGNANAM, J.



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