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Crl.R.C.No.724 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.724 of 2023

Narayanan

...
Vs

Petitioner

State By

Inspector of Police

T-3, Pallavaram Police Station,

Chennai. Crime No.1046 of 2022. ...

Respondent

Prayer: Criminal Revision Case filed under section 397 & 401 Cr.P.C. to set aside the order dated 04.03.2023 made in Crl.M.P.No.1268 of 2023 on the file of the Principal Special Court under EC & NDPS Act at Chennai and allow the above criminal revision.

For Petitioner : Mr.R.Thamarai Selvan

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



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ORDER

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Challenging the order dated 04.03.2023 passed in Crl.M.P.No.1268 of 2023 by the Principal Special Court under EC & NDPS Act at Chennai, this Criminal Revision Case has been filed.

2.The prosecution case is that on receiving a secret information about illegal sale of Ganja on 29.12.2022, the sub Inspector of Police along with his police team went to SOC (i.e) near 200 feet road junction, Pallavaram Station Boarded road, at that time, Thameem Ansari (A1), Sirajudeen (A2) and Narayanan (A3) were came in two wheeler bearing registration No. TN 20 DY 2300 Honda Activa, car bearing registration No. TN 05 AP 2626 Volk Wagon and another car bearing registration No. TN 22 BK 5252 Innova Car and the respondent police caught the accused in spot and enquired them and found 1.250 Kg Ganja, 2 gram Methamphetamine and 10 ml Ganja Oil in illegal possession of A-1, 1.150 Kg Ganja from A-2 and 1.100 Kg Ganja from A-3. Thereafter, the respondent police registered a case in crime No.1046 of 2022 for the offences punishable under Sections 8(c), r/w 20(b) (ii) (B), 22(a), 29(i), 25 of NDPS Act against the accused. During the course of investigation, the



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then Inspector of police produced the seized articles before the Principal Special Court Under EC & NDPS Act cases, Chennai and the same was taken on file and assigned A.No.88 of 2023, B.No.39 of 2023 dated 24.01.2023.

3.The learned counsel for the petitioner submitted that the petitioner is the owner of the seized Innova Car bearing registration No.TN 22 BK 5252, which was handed over to the Court in B.No.39 of 2023 and the vehicle is not involved in any previous case of offence of similar in nature. The vehicle has been kept under the custody of the court and if the vehicle is kept in open space under unconditional weather conditions, the same would depreciate its value and user capacity. Therefore, the petitioner has filed a petition in Crl.M.P.No.1268 of 2023 for return of his vehicle and the same was dismissed by the trial Court.

4.Further, the learned counsel for the petitioner contended 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. The petitioner is ready to give appropriate



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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.

5. The learned Govt. Advocate (Crl.side) appearing for the respondent objected to return of vehicle stating that the petitioner is the third accused and the vehicle was involved in this crime and and if the vehicle is ordered to be returned, he may use the vehicle for committing same offence. He fairly conceded that the vehicle is not involved in any previous case of similar in nature.

6. Heard both sides and perused the entire materials available on record.

7.A perusal of the records would reveal that on 29.12.2022, receiving a secret information about illegal sale of Ganja, the respondent Police along with the police team went to SOC (i.e) near 200 feet road junction, Pallavaram



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Station Boarded road, at that time, Thameem Ansari (A1), Sirajudeen (A2) and Narayanan (A3) were came in two wheeler bearing registration No. TN 20 DY 2300 Honda Activa, car bearing registration No. TN 05 AP 2626 Volk Wagon and another car bearing registration No. TN 22 BK 5252 Innova Car and the respondent police caught the accused in spot and enquired them and found 1.250 Kg Ganja, 2 gram Methamphetamine and 10 ml Ganja Oil in illegal possession of A-1, 1.150 Kg Ganja from A-2 and 1.100 Kg Ganja from A-3. Thereafter, the respondent police registered a case in crime No.1046 of 2022 for the offences punishable under Sections 8(c), r/w 20(b) (ii) (B), 22(a), 29(i), 25 of NDPS Act against the accused. Thereafter, the seized contraband and vehicles were produced before the special Court for EC & NDPS Act cases, Chennai, in A.No.88 of 2023, B.No.39 of 2023 dated 24.01.2023.

8. Further, on perusal of records, it is seen 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



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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.

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 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.

10.In the result, this Criminal Revision Case is allowed and the impugned order dated 04.03.2023 passed in Crl.M.P.No.1268 of 2023 by the Principal Special Court under EC & NDPS Act at Chennai, is hereby set aside. The interim custody of the Innova car bearing registration No. TN – 22 – BK – 5252 is ordered to be handed over to the petitioner, who is the owner of the vehicle on the following conditions;



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- 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.5,00,000/-(Rupees Five lakhs only) before the Principal Special Court Under EC & NDPS Act, Chennai, and the learned Judge 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 panchanama 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;
- 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



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To

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- 1.The Principal Special Court under EC & NDPS Act,
Chennai.
- 2.Inspector of Police
T-3, Pallavaram Police Station,
Chennai. Crime No.1046 of 2022.
3. The Public Prosecutor,
Madras High Court.

V. SIVAGNANAM, J.

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