



Crl.R.C.No.1010 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.07.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1010 of 2023

E.Priya

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
V-4, Rajamangalam Police Station,
Chennai.
(Crime No.175 of 2023)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.3165/2023 dated 22.05.2023 on the file of the learned Principal Special court under EC & NDPS Act at Chennai and to return the vehicle viz., Car Maruti Ertiga ZXI bearing Registration No.TN-13-R-5195, granite grey colour.

For Petitioner : Mr.M.Illiyas for
Mr.B.Shankar

For Respondent : Mr.J.Subbiah, GA (Crl. Side)



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ORDER

The present criminal revision petition is filed, praying to set aside the orders passed in Crl.M.P.No.3165 of 2023 on the file of the Principal Special Court under EC & NDPS Act, Chennai.

2. The learned Principal Special Judge under EC & NDPS Act vide her orders dated 22.05.2023 dismissed the said petition filed under Section 451 Cr.P.C seeking return of Maruti Ertiga ZXI Car bearing Registration No.TN-13-R-5195, granite grey colour, which was seized by the Inspector of Police, V-4, Rajamangalam Police Station, Chennai, in Crime No.175/2023 for the alleged offences punishable under Section 8(c) r/w.20(b)(ii)(B), 25 and 29(1) of NDPS Act.

3. The case of the prosecution is that on 27.04.2023 at about 07.15 hours, the Sub Inspector of Police, V-4, Rajamangalam Police Station, Chennai on an information went near Retter Junction, Kolathur, Chennai along with his police party and intercepted one Maruti Suzuki



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Ertiga Grey Car bearing Reg.No.TN-13-R-5195 and arrested all the persons in the car as they were found transporting 2.500 kgs of Ganja. The contraband was seized from the accused persons along with Maruti Suzuki Ertiga Grey Car bearing Reg.No.TN-13-R-5195, and the accused were remanded to judicial custody on the same day. The seized vehicle and the contraband were produced before the Principal Special Court under EC & NDPS Act at Chennai. The present revision petitioner filed a petition under Section 451 Cr.P.C. for return of the above said vehicle. Learned Principal Special Judge under EC & NDPS Act vide orders dated 22.05.2023 dismissed the said petition on the following grounds :

- (a) The investigation is at preliminary stage.
- (b) The petitioner is the mother of the third accused

Aggrieved over the said orders, the present revision petition is filed.

4. The respondent filed a detailed counter affidavit wherein it is stated that since the investigation has not been completed the petition may be dismissed.



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5. Heard, Mr.M.Iliyas, learned counsel for the revision petitioner and Mr.J.Subbiah, learned Government Advocate (Crl. Side) learned counsel for the respondent.

6. It is admitted that the present petitioner is the mother of the third accused and the learned Government Advocate (Crl. Side) fairly conceded that there are no bad antecedents as against the third accused and present vehicle is also not involved in any other crime.

7. It is relevant to refer 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*, wherein, the relevant portion is extracted hereunder.

Vehicles

“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



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WEB COPY *hearing of applications for return of such vehicles.*

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 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.”

8. Keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time. As such, considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the Revision Petition.



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9. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 22.05.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai is set aside. The Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, is directed to return the vehicle to the owner of the vehicle on the following conditions :

- i) the petitioner shall prove her ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii) the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai.
- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle bearing registration No.TN-13-R-5195 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN-13-R-5195 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as



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- v) the petitioner shall not alienate or encumber the vehicle in any manner;
- vi) the petitioner shall give an undertaking that she 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.

10.07.2023

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl



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R. HEMALATHA, J.
mtl

To

1.The Principal Special Court for NDPS Act, Chennai.

2.State Rep. by
The Inspector of Police,
V-4, Rajamangalam Police Station,
Chennai.

3. The Section Officer,
Criminal Section, High Court,
Madras.

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