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Crl.R.C.No.1057 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.07.2023

CORAM

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

Crl.R.C.No.1057 of 2023

Praveen Kumar

... Petitioner

Vs.

The State Rep. by
the Inspector of Police,
T-15, Kannagi Nagar Police Station,
Chennai - 600 097.

... 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.1179 of 2023, dated 09.03.2023 on the file of the Principal Special Judge for EC/NDPS Act Cases, Chennai.

For Petitioner : Mr.M.Murugan

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

ORDER

The present criminal revision petition is filed, praying to set aside the orders passed in Crl.M.P.No.1179 of 2023 on the file of the Principal Special Judge for EC/NDPS Act Cases, Chennai.

2. The present revision petitioner filed the said petition under



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Sections 451 / 457 of Cr.P.C., for return of his two wheeler Hero splendor Pro (Grey Colour) bearing Registration No.TN 19 X 5789 which was seized by the respondent, the Inspector of Police, T-15, Kannagi Nagar Police Station, Chennai - 600 097 in Crime No.318/2022 for the alleged offences punishable under Sections 8(c) r/w. 20(b)(ii)(B), and 25 of NDPS Act.

3. The case of the prosecution is that on 26.08.2022 at about 10.00 hours, the Sub Inspector of Police, on receiving secret information, went along with his police team near Kannagi Nagar Sivan Kovil and intercepted a two wheeler Hero splendor Pro (Grey Colour) bearing Registration No.TN 19 X 5789 and a search was conducted on the rider and the pillion rider of the vehicle and they were found in possession of 1.200 Kgs of Ganja and FIR in crime No.318/2022 for the offence 8(c) r/w. 20(b)(ii)(B) and 25 of NDPS Act was registered. The said contraband was seized along with the vehicle. Thereafter the respondent Police arrested the accused and remanded them to the judicial custody on the same day. The seized vehicle and the contraband were produced



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before the Principal Special Court under EC & NDPS Act at Chennai.

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The present revision petitioner filed a petition under Sections 451 & 457 of Cr.P.C. for return of the above said vehicle. The learned Principal Special Judge under EC & NDPS Act vide orders dated 09.03.2023 dismissed the petition on the ground that the investigation is at preliminary stage. Aggrieved over the said orders, the present revision petition is filed.

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

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

6. The learned counsel for the petitioner submitted that the present petitioner is not involved in any offence and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the



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vehicle.

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7. Per contra, the learned Government Advocate (Crl. side) contended that the vehicle was used for illegal transporting Ganja and if the vehicle is ordered to be returned, he may use the vehicle for committing similar offence. Hence, he sought for dismissal of the petition.

8. 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, it is held thus:

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 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



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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.”

9. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 09.03.2023 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.



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- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the two wheeler Hero splendor Pro (Grey Colour) bearing registration No. TN 19 X 5789 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 19 X 5789 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 she will not use the vehicle for any illegal activities in future,
- vii) the petitioner shall also produce the vehicle as and when required by the court below and by the respondent police.

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Index: Yes/No
Speaking/Non-Speaking order
vum

To

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

2.The Inspector of Police,
T-15, Kannagi Nagar Police Station,
Chennai - 600 097.

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

R. HEMALATHA, J.

vum



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