



Crl.R.C.No.1136 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 05.07.2023

CORAM:

THE HONOURABLE MRS. JUSTICE R.HEMALATHA

Crl.R.C.No.1136 of 2023

Clara Betsy

...Petitioner

Vs.

The Inspector of Police
T-16, Semmancherry Police Station,
Chennai.

...Respondent

Prayer: Criminal Revision Case filed under Sections 397 read with Section 401 of Cr.P.C. to set aside the order in Crl.M.P.No.3771 of 2023 dated 15.06.2023 in Cr.No.277 of 2022 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.S.Apunu

Respondent : Mr.J.Subbiah,
Government Advocate (Crl.Side)



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ORDER

The present criminal revision case is directed against the order dated 15.06.2023 in Crl.M.P.No.3771 of 2023 in Crime No.277 of 2022 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai.

2 The petitioner filed a petition in Crl.M.P.No.3771 of 2023 on the file of the above said Court under Section 451 of Cr.P.C. seeking return of a Car bearing Reg.No.TN-59-AD-4159, which was seized by the Inspector of Police, T-16 Semmanchery Police Station, Chennai, for the alleged offences under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of the NDPS Act. The learned Principal Special Judge dismissed the said petition vide her orders dated 15.06.2023 on the ground that the petitioner is the mother of A1 and if the property is returned to her, the vehicle would be used to commit similar kind of offences.



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3 The case of the prosecution is that on 21.10.2022, the Inspector of Police, T-16 Semmancherry Police Station, along with his police party, on gathering information, found the accused 1 to 4, selling Ganja and also in possession of 4.400 Kgs Ganja and hence arrested them after following necessary provisions of law under the NDPS Act. Thereafter FIR was registered in Cr.No.277 of 2022 for the offences under Sections 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of the NDPS Act. The Car bearing Reg.No.TN-59-AD-4159 was also seized while arresting the accused and the same was produced before the Court concerned.

4 Mr.S.Apunu, learned counsel appearing for the revision petitioner contended that the revision petitioner is not an accused in the present case and that merely because she happens to be the mother of A1, it cannot be stated that she is not entitled to get her vehicle back. It is also his submission that if the Car is kept in the Police Station in open place, the value of the Car would diminish over a period of time and therefore he



prayed for return of the Car.

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5 Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent submitted that since the owner of the Car is the mother of A1, the prime accused, the vehicle should not be returned to her.

6 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 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.”

7 As per the above ratio laid down by the Hon-ble Apex Court, this Court is of the view that keeping the vehicle idle in an open space would not only diminish its nature but also value of the same would be lost. Hence this Court is inclined to allow the Revision Petition.

8 Accordingly, this Criminal Revision Case is allowed and the impugned order dated 15.06.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai is set aside. The



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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.2,00,000/- (Rupees Six lakhs 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 59-AD-4159 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No.TN 59-AD-4159 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 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.

viii) The R.C.Book shall be deposited before the Court concerned.

05.07.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non-Speaking order

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To

1. The Principal Special Judge,
Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police,
T-16, Semmancherry Police Station,
Chennai.



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R.HEMALATHA, J.,

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