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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.07.2023

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

Crl.R.C.No.1172 of 2023

K.Deepak Kumar

... Petitioner

Vs.

State rep by:

Inspector of Police

Tambaram Police station

Chengalpet District

Crime No.925 of 2022

... Respondent

Prayer : Criminal Revision filed under Section 397 & 401 of Criminal Procedure Code 1973, prayed to set aside the order passed in Crl.M.P.No.1804 of 2023 dated 27.03.2023 direct the respondent to return the property to the petitioner bike bearing TN 05 BZ 4071, YAMAHA R15 in Black colour and Apple iPhone 11(While 128 GB)(IMEI No/Serial No.352224778933291)

For Petitioner : Mr.S.Thirugnanam

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

ORDER

The present criminal revision petition is filed, praying to set aside the order passed by the learned Principal Special Judge for EC & NDPS Act Cases, Chennai in Crl.M.P.No.1804 of 2023 dated 27.03.2023.



2. The petitioner filed a petition in Crl.M.P.No.1804 of 2023 in Crime No.925 of 2022 on the file of the above said Court under Section 451 of Cr.P.C. seeking return of Yamaha R15 Black colour bearing registration No.TN05 BZ 4071 and Apple iPhone 11(While 128 GB) which were seized by the T-1, Tambaram Police Station.

3. The case of the prosecution is that the petitioner/accused was found in possession of 1.100 Kgs of Ganja and transported the same through a two wheeler Yamaha R15 Black colour bearing registration No.TN05 BZ 4071. The respondent police has registered an FIR in Crime No.925 of 2022 for the offences punishable under Section 8(c) r/w 20(b)(ii)(B) of NDPS Act. The learned Principal Special Court under EC & NDPS Act vide her orders dated 27.03.2023 dismissed the application filed by the revision petitioner under Section 451 of Cr.P.C on the ground that since the properties were involved in the crime, the same may not be returned to the petitioner.

4. Heard Mr.S.Thirugnanam, learned counsel for the revision petitioner and Mr.J.Subbiah, Government Advocate (Crl. Side), learned



counsel for the respondent.

5. The learned counsel for the revision petitioner contended that even according to the prosecution, the petitioner was in possession of iPhone and the same has not been sent to any forensic lab for examination. He would further contend that if the vehicle is kept in the open space, the value of the vehicle will diminish over a period of time.

6. Considering the facts and circumstances of the case, this Criminal Revision is allowed and the properties were ordered to be returned to the petitioner on the following conditions:

i. The petitioner should prove his ownership of both the properties before the trial Court.

ii. He should execute a bond for a sum of Rs.50,000/-(rupees fifty thousand only) before the trial Court.

iii) He should deposit the original R.C. Book before the trial Court.

iv He should not alter or alienate the vehicle in any manner whatsoever.

v. He should not change the colour of the vehicle.

vi. He should produce the vehicle as and when required by the



trial Court.

vii. The trial Court is directed to take photographs of the vehicle and then return the same to the present revision petitioner.

7. With the above directions, the present Criminal Revision Petition is allowed. No costs.

07.07.2023

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

To

1. The Inspector of Police
Tambaram Police station
Chengalpet District
2. The learned Special Judge for EC & NDPS Act Cases, Chennai
3. The Section Officer,
Criminal Section, High Court, Madras.



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R. HEMALATHA, J.

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