



Crl.R.C.No.1270 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.07.2023

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

Crl.R.C.No.1270 of 2023

M.Gopalakrishnan

... Petitioner

Vs.

State Rep. by  
The Inspector of Police,  
P-6, Kodungaiyur Police Station,  
Chennai - 600 158.  
(Crime No.156 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.3639/2023 dated 26.06.2023 on the file of the Principal Special court under EC & NDPS Act, Sessions Judge, Chennai-104 and to pass an order directing the respondent to return Swift Suzuki Desire Car bearing Reg.No.TN12-AB-6464 and one smart phone 1 Plus 8T Green 12GB 256 GB seized in Crime No.156/2023 to the petitioner.

For Petitioner : Mr.S.Mohan Raj

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



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**ORDER**

Challenging the orders passed by the learned Principal Special Judge under EC & NDPS Act, Chennai in Crl.M.P.No.3639/2023, the present revision is filed.

2.The present revision petitioner is the fourth accused in Crime No.156/2023 of P-6, Kodungaiyur Police Station, Chennai which was registered for the offences punishable under Section 8(c) r/w.20(b)(ii)(B) of NDPS Act.

3.The case of the prosecution is that when the police intercepted a Maruti Suzuki Desire Car bearing Reg.No.TN12-AB-6464 during their routine check up they found the inmates of the car were in illegal possession of 2 Kgs of Ganja. The police arrested them and produced them before the Principal Special Court under EC & NDPS Act, Sessions Judge, Chennai. The car and a Smart Phone One Plus 8T Green 12 GB 256 GB were also seized by the police from the accused.



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

5. Mr.S.Mohan Raj, learned counsel for the revision petitioner contended that if the car is kept in the open space the value of the same will diminish over a period of time and hence, prayed for return of the same.

6. Mr.J.Subbiah, learned Government Advocate (Crl. Side) fairly conceded that there are no bad antecedents as against the second accused and present vehicle is also not involved in any other crime. He further contended that Smart Phone One Plus 8T Green 12 GB 256 GB had not been sent to forensic lab and they are had not also been intend to send the same to forensic lab.



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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 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*



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*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. Considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the present Revision.

9. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 26.06.2023 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 car and smart phone on the following conditions :

- 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 bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai.



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- iii) the Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicle bearing Reg.No.TN12-AB-6464 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing Reg.No.TN12-AB-6464 and the mobile phone 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.

No costs.

**19.07.2023**

Index: Yes/No  
Internet: Yes/No  
Speaking/Non-Speaking order  
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**R. HEMALATHA, J.**  
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To

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

2.State Rep. by  
The Inspector of Police,  
P-6, Kodungaiyur Police Station,  
Chennai - 600 158.

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

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