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Crl.R.C.No.1381 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1381 of 2023

Bharath

... Petitioner

Vs.

The State Rep. by
Inspector of Police,
Sulur Police Station,
Coimbatore.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to set aside the order dated 23.06.2023 passed in Crl.M.P.No.2974 of 2023 in Crime No.656 of 2022 passed by the learned Judicial Magistrate, Sulur, Coimbatore and allow the revision.

For Petitioner : Mr.C.D.Sugumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

The petitioner, who is arrayed as A2 in Crime No.656 of 2022 for the offence under Section 24(1) of Cigarette and Other Tobacco Products Act, 2003 and Section 328 IPC, in which his car Hyundai Creta bearing Registration No.TN-37-DB-2868 was seized, filed a petition seeking return of property before the learned Judicial Magistrate, Suler in Crl.M.P.No.2974 of 2023. The learned Judicial Magistrate by order dated 23.06.2023 dismissed the petition. Against which, the present revision petition is filed.

2.The contention of the learned counsel for the petitioner is that some of the accused in this case have known to the petitioner which have been taken advantage and the petitioner has been implicated in this case. The petitioner is the owner of the car and after seizure, his case has been detained by the respondent in the Police Station exposing the vehicle to vagaries of weather. He would submit that the car exposing to shine and rain would get damage and the vehicle would become a scrap. He further



submitted that the petitioner is dealing in electrical articles and for his business, the vehicle is very much required. Due to detention of the car, the petitioner is unable to continue with his business and his earnings have been greatly affected. Further, a sum of Rs.20,01,800/- had been seized by the respondent police along with the car. The petitioner filed a petition before this Court in Crl.R.C.No.1432 of 2023 and this Court by order dated 16.08.2023 directed the said amount to be deposited in Fixed Deposit. He would also submit that the amount lying in the Fixed Deposit can be used by the respondent police as security. He further submitted that the Hon'ble Apex Court in the case of “***Sunderbhai Ambalal Desai Versus State of Gujarat*** reported in ***AIR 2003 SC 638***”, had given guidelines for return of vehicle and articles to the owner. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle.

3.The learned Additional Public Prosecutor filed his counter and submitted that the petitioner and the other accused are close friends, they have joined together in smuggling the banned tobacco products from Karnataka using their vehicle. The petitioner's car Hyundai Creta bearing



Registration No.TN-37-DB-2868, Volkswagen Polo Car bearing

Registration No.KA-04-MT-1909, Hondo Dio Two Wheeler and TVS XL

were seized along with 352 kgs of tobacco products smuggled from

Karnataka. 92 kgs of tobacco products along with Rs.20,01,800/- was

seized from petitioner's car. He further submitted that apart from this case,

he is involved in two more cases of similar nature which were as follows:

S.No.	Police Station, Cr.No., U/s.	Stage of the Case
1.	Palladam P.S., Cr.No.1779/2021, U/s.273, 328 IPC, 20(2), 7(1) COTPA Act	Under Investigation
2.	Sathyamangalam P.S., Cr.No.643 of 2021, U/s.6 r/w. 24(1) COTPA Act	Under Investigation

He would submit that if the petitioner's vehicle has been returned to him, the same would be used for further commission of similar activities.

Hence, he prayed for dismissal of this petition.

4.The learned counsel for the petitioner submitted that he shall file an affidavit to the effect that the vehicle will not be used in similar offence and in violation of any law.

5.Considering the submissions made and on perusal of the materials,



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it is not in dispute that the petitioner is the owner of Hyundai Creta car bearing Registration No.TN-37-DB-2868, the vehicle has been kept in the open air from the date of seizure i.e. from 04.11.2022 and the vehicle has been exposed to vagaries of weather. Further the petitioner needs the vehicle for his business is also not in dispute. It is also seen that in two other cases cited by the respondent police, the vehicle of the petitioner is not involved. Further, a sum of Rs.20,01,800/- had been seized by the respondent police along with the car, the petitioner filed a petition before this Court in Crl.R.C.No.1432 of 2023 and as per the order of this Court dated 16.08.2023, the said amount was deposited in Fixed Deposit.

6.Further, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become immobile. In view of the aforesaid reasons, this court is inclined to set aside the order passed by the learned Judicial Magistrate, Sulur, Coimbatore.

7.Accordingly, this Criminal Revision Case is allowed and the



impugned order dated 23.06.2023 passed by the learned Judicial Magistrate, Sulur, Coimbatore in Crl.M.P.No.2974 of 2023 is set aside. In view of the same, the learned Judicial Magistrate, Sulur is directed to return the vehicle Hyundai Creta car bearing Registration No.TN-37-DB-2868 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate, Sulur, Coimbatore;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

(iii) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iv) The petitioner shall also give an undertaking



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that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below.

(v) The petitioner to file an affidavit before the Trial Court that the vehicle will not be used for transportation of any tobacco products or any other contraband.

01.11.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse

To

- 1.The Judicial Magistrate,
Sulur, Coimbatore.
- 2.The Inspector of Police,
Sulur Police Station,
Coimbatore.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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