



WEB COPY



Crl.R.C.No.1378 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.10.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1378 of 2023

Prasanna Kumar

... Petitioner

Versus

The Inspector of Police,
Job Racket Wing, Team-28,
Central Crime Branch,
Egmore, Chennai.

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 05.06.2023, passed in Crl.M.P.No.20628 of 2023, passed by the Additional Court Exclusive Trial for CCB Cases, Egmore and allow this revision petition by directing the respondent police to give custody of the above said articles to the petitioner herein.

For Petitioner	: Mr.N.Balaji
For Respondent	: Mr.A.Damodaran Additional Public Prosecutor

ORDER

The petitioner/A1 in Crime No.12 of 2023 was arrested in the above



case for offences under Sections 406, 420, 506(i) and 120(b) of IPC by the respondent police. When he was arrested by the respondent police he gave confession. Based on his confession, 10 articles were seized. Thereafter, petitioner filed return of property petition in C.M.P.No.20628 of 2023. The lower Court by an order dated 05.06.2023 granted interim custody of the articles in Item Nos.2, 3, 4, 6, 8 and 9 to the petitioner. As regards the articles in Item Nos.1, 5, 7 and 10, dismissed the petition. Item No.1 is the Car, item Nos.5 and 10 are Diary and Notes and item No.7 is Passport. Against this dismissal, the present revision has been filed.

2. The contention of the petitioner is that petitioner was arrested and articles were seized on the ground that the petitioner confessed about his involvement in the above offence along with other accused. Based on his confession, the articles have been seized. In the confession, the police had written on their own as though the petitioner taken money from the de-facto complainant, used his money for construction of house as well as purchase of the car and other articles. The petitioner has got no house as projected by the respondent. Further submits that the car is required for his personal use. The petitioner has got aged parents and the car is primarily used for taking his



parents for medical examination. His aged parents at times get sick at late hours and the car is very much required for providing medical assistance to them. He further submits that the car is now kept in open space exposing to vagaries of weather, thereby, the value of the vehicle is getting diminished and vehicle would become immobile.

3. Learned Additional Public Prosecutor vehemently opposes this petition and submits that the petitioner is jobless person. He conspired with other accused and cheated several persons on the false promise of providing job. This is a case of job racketing. From the money collected from the innocent victims, the car has been purchased by the petitioner. He further submits that as regards other articles, i.e. Diary and Passport, which are required for the purpose of prosecution, if the passport is returned to the petitioner he would flee away from the country and he would not be available for trial. In this case A1 and A3 alone appearing before the trial Court and A2 is still absconding and hence, strongly opposes granting of the custody of the articles. He fairly contended that since the petitioner submits that the car is required for medical exigency of his parents, the same can be considered sympathetically.



WEB COPY

4. Considering the submissions made and on perusal of the material, it is not in dispute that the petitioner is the owner of the vehicle, viz., Volkswagen white colour car bearing Registration No.TN-39-BF-1900. The petitioner requires the car for taking his parents to medical examination and also for his personal use. The Hon'ble Apex Court in the case of ***“Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290”***, had given guidelines in the cases of return of property to the owner. In view of the aforesaid reasons, this court is inclined to set aside the order passed by the learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore with regard to item No.1-Car alone.

5. Considering the fact that investigation completed, charge sheet filed and the vehicle has been kept in open yard and the petitioner being a owner of the vehicle, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Volkswagen white colour car bearing Registration No.TN-39-BF-1900 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned



Crl.R.C.No.1378 of 2023

condition Nos.(i) to (iii):-

WEB COPY

(i) The petitioner shall execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties each, for a like sum to the satisfaction of the learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii) The petitioner shall not alter or alienate the vehicle in question till the completion of Trial.

(iii) The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(iv) The petitioner shall submit a photostat copy of R.C.Book before the learned Metropolitan Magistrate, Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai.

(v) The petitioner shall produce the vehicle as and when directed to do so.

6. In view of the above, the order dated 05.06.2023 made in Crl.M.P.No.20628 of 2023, passed by the learned Metropolitan Magistrate,



Crl.R.C.No.1378 of 2023

Additional Court for Exclusive Trial of CCB Cases, Egmore, Chennai is set aside insofar as Item No.1/Car is concerned. With regard to return of properties in Item No.5/Diary, Item No.7/Passport and Item No.10/Notes, the Criminal Revision Case is dismissed.

Accordingly, the Criminal Revision Case is partly allowed.

19.10.2023

Index : Yes/No
Internet : Yes/No
Neutral Citation : Yes/No
Speaking order/Non speaking order
rsi



Crl.R.C.No.1378 of 2023

To
WEB COPY

- 1.The Inspector of Police,
Job Racket Wing, Team-28,
Central Crime Branch,
Egmore, Chennai.
- 2.The Metropolitan Magistrate,
Additional Court for Exclusive Trial of CCB Cases,
Egmore, Chennai.
- 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.1378 of 2023

M.NIRMAL KUMAR, J.

rsi

Crl.R.C.No.1378 of 2023

19.10.2023