



Crl.R.C.No.1779 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.11.2023

CORAM:

THE HON'BLE MR.JUSTICE **M. NIRMAL KUMAR**

Crl.R.C.No.1779 of 2023

M.Vijay

... Petitioner

Vs.

State Rep. by
The Inspector of Police,
D-6, Pothatturpet Police Station,
Thiruvallur District.
(Crime No.108 of 2022)

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C to set aside the order dated 27.02.2023 made in C.M.P.No.6012 of 2022 and return the Vehicle Maruthi Swift Dzire VXi, G.Grey Colour Car bearing Regn. No.TN-85-A-2659 Chasis No.MA3EJKD1S00659781 in Engine No.K12MN1505033 to the petitioner herein.

For Petitioner : Mr.D.Dayalan

For respondent : Mr.A.Damodaran,
Additional Public Prosecutor



Crl.R.C.No.1779 of 2023

ORDER

WEB COPY The petitioner is the owner of the Swift Drive Car bearing Registration No.TN-85-A-2659, which was seized by the respondent police in Crime No.108 of 2022 for the offence under section 8(c) r/w 20(b)(ii)(B), 25 and 29(1) of NDPS Act.

2. The petitioner had filed a petition under section 461 Cr.P.C before the lower court in Crl.M.P.No.6012 of 2022 seeking for return of the property. The lower court by order dated 27.02.2023 recorded that the petitioner is not an accused and further the vehicle had been seized by the respondent police and produced before the Court on 26.04.2022, but the petitioner had not produced any document to show that he is the owner of the car and hence, dismissed the petition.

3. The counsel for the petitioner produced a copy of the registration certificate of the car wherein the petitioner being the owner is recorded. Further, he submitted that the petitioner is used to drive the vehicle as driver cum owner and at times, hires the vehicle for known persons. In this case,



Crl.R.C.No.1779 of 2023

the petitioner had hired the vehicle to one Ramesh of Panapakkam, a known person. The said Ramesh had given the vehicle to his co-brother, Manikandan who has committed the offence. The petitioner has got nothing to do with the activities of the said Manikandan and now the vehicle has been kept in open space exposing to vagaries of whether, thereby, the value of the vehicle is getting diminished and vehicle would become immobile. Further, the petitioner submits that the petitioner is abided finance from Cholamandalam Investment and Finance Company and they are collecting EMI regularly. If there is any default, the petitioner's other property would be attached. The seizure of the vehicle affects the livelihood of the petitioner and further, he would be put under heavy burden, if the vehicle was not returned to him. Hence prayed for return of the property.

4. Learned Public Prosecutor submits that in this case, one Manikandan of Nagari was found transporting 2 kgs of Ganja from Andhra and he was selling the same in Pallipattu and other surrounding villages using the car bearing Regn. No.TN85-A-2659. He further submitted that the accused Manikandan is the co-brother of one Ramesh and the said Ramesh



Crl.R.C.No.1779 of 2023

had hired the car from the petitioner which has been used for the transportation of Ganja. He further submitted that if the vehicle is handed over to the petitioner, the petitioner might once again rent out the car, which may be used for committing similar offences. Though he fairly submitted that the petitioner is not an accused in this case, he objected for return of the vehicle to the petitioner.

5. Heard the submissions on either side and perused the materials available on record. It is seen that it is not in dispute that the petitioner's vehicle was seized by the respondent police on 09.04.2022 and thereafter, produced before the lower court on 26.04.2022 and 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. Further, the petitioner is not an accused in this case. The fact that the petitioner rent out the vehicle to one Ramesh who is the co-brother of the accused Manikandan is also not in dispute. The petitioner had got nothing to do with the acts of Ramesh or Manikandan. The petitioner has no bad antecedent and the vehicle is also



Crl.R.C.No.1779 of 2023

not involved in any offence so far. The petitioner's livelihood depends upon the vehicle.

6. In view of the aforesaid reasons, this court is inclined to set aside the order passed by the lower court.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 27.02.2023 passed in Crl.M.P.No.6012 of 2022 on the file of the Principal Special Court under EC and NDPS Act, Chennai is set aside. In view of the same, the Principal Special Judge, Chennai is directed to return the vehicle Maruthi Swift Dzire VXi, bearing Regn. No.TN-85-A-2659 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 Principal Special Judge, Chennai.

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership. The learned Principal Special Judge, Chennai shall peruse the RC book and other records, retain xerox



WEB COPY



Crl.R.C.No.1779 of 2023

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 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.

08.11.2023

nl



Crl.R.C.No.1779 of 2023

To
WEB COPY

1. The Principal Special Judge, Chennai.
2. The Inspector of Police,
D-6, Pothatturpet Police Station,
Thiruvallur District.
3. The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.1779 of 2023

M. NIRMAL KUMAR, J.

nl

CrI.R.C.No.1779 of 2023

08.11.2023