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Crl.R.C.No.1740 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.10.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1740 of 2023

J.Raja

... Petitioner

Versus

State of Tamil Nadu
Rep. by Inspector of Police,
Kadambathur Police Station,
Tiruvallur District.

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to set aside the order passed in Crl.M.P.No.6267 of 2023 passed by the learned Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.G.Balachander

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor

ORDER

The petitioner/owner of Scorpio Car bearing Registration No. TN-02-AT-7099, which was seized by the respondent police in Crime No.76



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of 2022 for offences under Sections 8(c) r/w 20(b)(ii)(B), 22(b), 22(c), 25 and 29(1) of NDPS Act, filed a petition in Crl.M.P.No.6267 of 2023 seeking return of original R.C. Book. The learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai, by an order dated 04.09.2023 dismissed the same, against which the present revision has been filed.

2. The contention of the petitioner is that the petitioner is not an accused in this case. The petitioner's son arrayed as A4. From the Scorpio vehicle 1 gram of Methycrystal was said to have been seized along with other articles. Earlier, the petitioner filed a petition before the trial Court in Crl.M.P.No.710 of 2023 seeking interim custody of the vehicle, which was dismissed on 13.02.2023, against which, he preferred a revision petition in Crl.R.C.No.334 of 2023 before this Court. This Court, by order dated 15.03.2023, allowed the revision petition and directed the respondent police to return the vehicle to the petitioner with the following conditions:

“11. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 13.02.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai is set aside. The respondent police is directed to return the vehicle to the owner of the vehicle on the following conditions:



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- (i) The petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;*
- (ii) the petitioner shall not alienate or encumber the vehicle in any manner;*
- (iii) the petitioner shall execute a bond for a sum of Rs.10,00,000/- (Rupees Ten lakhs only) before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai.*
- (iv) the petitioner shall given an undertaking that he will not use the vehicle for any illegal activities in future.*
- (v) the petitioner shall take photograph of the vehicle; and*
- (vi) the petitioner shall also produce the vehicle as and when required before the Court below and before the respondent police.”*

Thereafter, when the petitioner approached the Court below to comply with the order of this Court, the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai directed the petitioner to surrender the original R.C. Book of the Scorpio vehicle. Hence, the petitioner was forced to hand over the R.C.Book.



3. The learned counsel for petitioner submits that the petitioner is running a transport business, hiring vehicles to various persons. For his business he needs Scorpio vehicle and further he has been travelling interstate. Since the petitioner travels in his vehicle to various states, the R.C. Book is required as and when enquired by R.T.O. and the traffic personnels in other states. Due to the submission of original R.C. Book, the petitioner detained in various places and with great difficulty after giving explanation he was allowed to travel. In view of the same, the petitioner needs his R.C. Book, which is not the condition and not required to be retained in the Court below.

4. Learned Additional Public Prosecutor submits that the petitioner is the father of A4/Sriram. In this case, investigation is still pending. He further submits that the R.C. Book of Scorpio vehicle of the petitioner was produced before the lower Court at the time of furnishing sureties by the petitioner. This fact has been recorded in the impugned order. If the R.C. Book is returned to the petitioner, there is every possibility of petitioner alienating the vehicle using the R.C. Book. Hence, prays for dismissal of the petition.



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5. Considering the submissions made and on perusal of the order made by this Court as well as lower Court, it is seen that this Court at no point of time directed the petitioner to surrender/deposit the original R.C. Book before the Court below while complying with the order of this Court in Crl.R.C.No.334 of 2023. In view of the same, detaining/detention of the R.C. Book by the trial Court would not be proper. Further, this Court, while granting interim custody of the vehicle in Crl.R.C.No.334 of 2023, only directed the petitioner to produce the R.C. Book to prove the ownership of the vehicle and further the petitioner is directed to gave an undertaking that he will not alienate or encumber the vehicle in any manner and also to produce the vehicle as and when required by the Court below. When such conditions have been imposed to safeguard the interest of the prosecution, the trial Court imposing further condition over and above the condition imposed by this Court and thereby retaining the R.C. Book could not be proper.

6. Accordingly, this Criminal Revision Case is allowed and impugned order dated 04.09.2023 passed by the learned Principal Special Judge,



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M.NIRMAL KUMAR, J.

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Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.6267 of 2023 is set aside. The learned Principal Special Judge is directed to return/hand over the original R.C. Book to the petitioner. If required, the trial Court shall get an affidavit of undertaking from the petitioner that the vehicle would not be tinkered with, alienated or encumbered in any manner.

17.10.2023

Index : Yes/No

Internet : Yes/No

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To

- 1.The Inspector of Police,
Kadambathur Police Station,
Tiruvallur District.
- 2.The Principal Special Judge,
Principal Special Court under EC & NDPS Act,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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