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Crl.R.C.No.1743 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.1743 of 2023

V.Muthuraman

... Petitioner

Versus

State Rep. by
The Sub-Inspector of Police,
PEW, Kancheepuram Police Station,
Kancheepuram District.
(Crime No.531 of 2022)

...Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w 401 of the Code of Criminal Procedure to set aside the order dated 26.09.2023 made in Crl.M.P.No.2253 of 2022 on the file of Judicial Magistrate No.II Kancheepuram, Kancheepuram District dismissing the petition to return the Vehicle viz., Maruthi Swift ZXI Car, bearing Registration No.TN-01-AS-7830 to the petitioner herein.

For Petitioner : Mr.R.Sasikumar

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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The petitioner, who was arrayed as an accused in Crime No.531 of 2022 for offences under Sections 4(1)(aaa) 4(1-A) of Tamil Nadu Prohibition Act (Transporting) and Sections 6 and 11 of RS Rules 2000, from whom the Maruthi Swift ZXI car bearing Registration No.TN-01-AS-7830 was seized, had filed a return of property petition under Section 451 and 457 of Cr.P.C. before the learned Judicial Magistrate No.II, Kancheepuram in Crl.M.P.No.2253 of 2022. The same was dismissed by the learned Judicial Magistrate by an order dated 26.09.2023. Against which, the present revision has been filed.

2. The contention of the petitioner is that the petitioner's vehicle was seized from his house by the respondent police. The petitioner has nothing to do with the above case. The petitioner is carrying on the real estate business and he has been falsely implicated in the above case. The allegation against the petitioner is that on 24.07.2022, the respondent police during routine surveillance near Vedal surrounding area, found the petitioner's vehicle. When they inspected the vehicle, 3 cans each containing 35 litres of alcohol with pungent smell causing irritation found. Suspecting the same to be illicit



arrack, samples were taken. Thereafter, the petitioner was arrested and vehicle detained.

3. The specific case of the petitioner is that the petitioner's vehicle taken from his house. After seizure of the vehicle now it is kept in open space exposing to vagaries of weather, and thereby, the value of the vehicle is getting diminished. Further the petitioner's vehicle is used for his avocation. 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.

4. Learned Additional Public Prosecutor submits that the petitioner is the prime accused in Crime No.531 of 2022. During the routine check, petitioner's vehicle was inspected and illicit arrack with poisonous substance were seized. Samples collected, sent for chemical examination and the petitioner was arrested. Thereafter, the vehicle was seized by the respondent and produced before the appropriate authority for initiating confiscation



proceedings. The authority initiated confiscation proceedings and notice was served to the petitioner on 27.10.2022. Thereafter, vehicle report dated 11.04.2023 obtained. Public auction notice issued on 14.07.2023 and 13.08.2023. Public auction scheduled to be held on 22.08.2023. At that time, the petitioner informed the respondent about the pendency of the return of property petition before the Court below and hence, further action kept pending. Now the Court below dismissed the petition filed by the petitioner. The confiscation authorities to proceed with the confiscation proceedings. He further submitted that the petitioner having received notice, given up his right to question the confiscation proceedings, cannot file this petition seeking return of vehicle. If the petitioner is really aggrieved, he has to participate in the confiscation proceedings, put forth his case and get back his vehicle. Accordingly, he prays for dismissal of the petition.

5. 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., Maruthi Swift ZXI car bearing Registration No.TN-01-AS-7830. It is also not in dispute that the confiscation proceedings is yet to be completed. Public auction notice has been issued. The petitioner has not participated in the



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confiscation proceedings. Section 14 of the Tamil Nadu Prohibition Act contemplates various stages as to how the confiscation to be initiated and completed. In this case, the petitioner has been served with the notice but no representation has been submitted by the petitioner within the reasonable time and he has not participated in any hearings. In view of the same, the petitioner is directed to participate in the confiscation proceedings, make his representation within a period of two weeks from the date of receipt of copy of this order and thereafter, the confiscation authority shall provide an opportunity of hearing to the petitioner and thereafter proceed with the proceedings.

6. This Court in the case of “***Sakthidevi Versus State by The Inspector of Police, Thittachery Police Station, Nagapattinam District in Crl.R.C.No.501 of 2011***”, considered the case of “***David Vs. Sakthivel, Inspector of Police-cum-Station House Officer reported in 2010 1 MLJ (Crl.) 929***” and ordered return of seized vehicle to the owner, which is being consistently followed, despite initiation of the confiscation proceedings. 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



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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 No.II, Kancheepuram District.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 26.09.2023 passed by the learned Judicial Magistrate No.II, Kancheepuram District in Crl.M.P.No.2253 of 2022 is set aside. It is not in dispute that the vehicle after seizure was produced before the learned Judicial Magistrate and thereafter, confiscation proceedings initiated. In view of the same, the learned Judicial Magistrate No.II, Kancheepuram is directed to return the vehicle Maruthi Swift ZXI car bearing Registration No. TN-01-AS-7830 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 No.II, Kancheepuram;

(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



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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 and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(v) The petitioner shall participate in the confiscation proceedings if any initiated and shall produce the vehicle before the confiscation authority. This order is subject to the outcome of the confiscation proceedings.

17.10.2023

Index : Yes/No
Internet : Yes/No
Speaking order/Non-speaking order
Neutral citation : Yes/No
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M.NIRMAL KUMAR, J.

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To

- 1.The Judicial Magistrate No.II,
Kancheepuram,
Kancheepuram District.
- 2.The Sub-Inspector of Police,
PEW, Kancheepuram Police Station,
Kancheepuram District.
- 3.The Public Prosecutor,
High Court, Madras.

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