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Crl.R.C.No.1770 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 01.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1770 of 2023

Parvathi

... Petitioner

Vs.

The State Rep. by
The Inspector of Police,
P.E.W. Hosur,
Krishnagiri District.
Crime No.969 of 2023

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order dated 04.10.2023 made in Crl.M.P.No.4156 of 2023 on the file of the Judicial Magistrate No.II, Hosur and consequently direct the respondent to return the vehicle namely, Car bearing Registration No.TN 70 AK 3186 Maruti Suzuki XL6 to the petitioner forthwith.

For Petitioner : Mr.C.Munusamy

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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The petitioner, who is the owner of a Maruti Suzuki XL6 car bearing registration No.TN-70-AK-3186, filed a petition in Crl.M.P.No.4156 of 2023 before the learned Judicial Magistrate No.II, Hosur seeking return of her car which was seized by the respondent in Crime No.969 of 2023 for the offence under Sections 4(aa) r/w. 4(1-A) of TNP Act on the allegation that the vehicle was involved in smuggling and transportation of liquor bottles from the State of Karnataka. The said petition was dismissed by the Trial Court by order dated 04.10.2023. Against which, the present revision is filed.

2.The contention of the learned counsel for the petitioner is that one Munusamy who is residing in the nearby area of the petitioner requested the petitioner to lend her car to visit Kottaimariamman Temple at Hosur along with his family. The said Munusamy further assured that the vehicle will be returned in the evening on the same day. Since he is residing in the same area and known to the petitioner for a long time, the petitioner gave her car to the said Munusamy. But the vehicle was not returned to the petitioner as



promised. Hence, she made an enquiry and found that the said Munusamy along with her Driver Srinivasan had smuggled liquor bottles from Karnataka using the petitioner's car, the respondent police intercepted the vehicle, seized the car as well as the liquor bottles and arrested the said Munusamy and the driver of the vehicle. He would submit that the said Munusamy being the neighbour, the petitioner had believed him and handed over the vehicle. He would submit that now 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. He further submitted that the Trial Court dismissing the petition filed by the petition on the ground that confiscation proceedings have been initiated is also not proper and the petitioner had not received any notice in this regard. He would further submit 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, which reads as follows:

3.It is submitted that based on the above complaint, a case was registered in Hosur PEW in Cr.No.969 of 2023 u/s.4(1)(aa) r/w. 4(1-A) TNP Act on 23.08.2023 at about 23.00 hours by Tr.M.Chitrarasu, Sub Inspector of Police and the same was submitted before me took up the case for investigation.

4.It is submitted that after registration, the arrested accused persons A-1 and A-2 produced before the learned Judicial Magistrate No.II, Hosur and sent for judicial custody and also produced the said seized material before the said Court and the same was taken on file vide CP.No.511 of 2023 dated 04.10.2023.

5.It is submitted that on 01.10.2023, the Deputy Superintendent of Police, PEW Hosur, Krishnagiri District issued show cause notice to Parvathy, W/o.Kesavan who is owner of the said offence vehicle vide Lr.C.No.244/CONF/DSP/PEW/KG1/2023 dated 01.10.2023 and the same was acknowledged by A-1 on 03.10.2023.

6.It is submitted during the course of investigation which reveals that A-1 was involved in another case in



Cr.No.196/2022 u/s.24(1) COTPA Act 2003 on the file of Uthanapalli Police Station, Krishnagiri District and after due trial, the Trial Court by its judgment in STC.No.1367 of 2022, dated 12.11.2022, A-1 is found guilty and convicted him.

7.It is submitted that during the investigation which reveals that A-1 who is purchased said offence vehicle and the same was given to the petitioner/Parvathi. Further, due to accident, A-1's wife Thathammal was died 12 years before and his brother Kesavan also died during 2019 who is husband of the petitioner. Thereafter, A1 and the petitioner were living same house.

He further submitted that the Trial Court finding that the petitioner and A1 are acted in consonance had rightly dismissed the petition for return of property. Hence, he prayed for dismissal of the petition.

4.Considering the submissions made and on perusal of the materials, it is seen that the petitioner is not an accused in the above case. The petitioner is the owner of Maruti Suzuki XL6 car bearing registration No.TN-70-AK-3186 is also not in dispute. The objection of the respondent police is that the petitioner and A1 Munusamy are closely associated but



that cannot be a valid reason. The vehicle has been kept in open air by the respondent police and thereby, the value of the vehicle is getting diminished.

Further from the counter it is seen that the confiscation notice dated 01.10.2023 has been served to A1 Munusamy and not to the owner of the vehicle, namely the petitioner.

5.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.

6.Accordingly, this Criminal Revision Case is allowed and the impugned order dated 04.10.2023 passed by the learned Judicial Magistrate No.II, Hosur in Crl.M.P.No.4156 of 2023 is set aside. In view of the same, the learned Judicial Magistrate No.II, Hosur is directed to return the vehicle Maruti Suzuki XL6 car bearing Registration No.TN-70-AK-3186 to the petitioner, on the following conditions:-



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(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, Hosur;

(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 that she 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.

01.11.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
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M.NIRMAL KUMAR, J.

cse

To

- 1.The Judicial Magistrate No.II,
Hosur.
- 2.The Inspector of Police,
P.E.W. Hosur,
Krishnagiri District.
- 3.The Public Prosecutor,
High Court, Madras.

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