



Crl.R.C.No.1799 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.11.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1799 of 2023

Mohamed Thurabudeen

... Petitioner

Vs.

State rep. by

The Inspector of Police,

T-1 Ambattur Police Station,

Chennai.

(Cr.No.601/2023).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.6184/2023 which was dismissed on 09.10.2023 by the learned Principal Special Judge for NDPS Act Chennai by allowing this Revision Petition.

For Petitioner : Mr.T.S.Sasi Kumar

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

ORDER

The petitioner has filed a petition under Section 451 Cr.P.C., in Crl.M.P.No.6184 of 2023 in Crime No.601 of 2023 before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai to return the Black Colour Kia Car bearing Registration No.TN 04 BA 9940. The learned Principal Special Judge, by order, dated 09.10.2023 dismissed the petition,



against which, the present Criminal Revision Case.

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2.The contention of the petitioner is that the petitioner is the owner of the above said vehicle which was seized by the respondent Police in Crime No.601 of 2023, for offence under Sections 8(c) r/w 20(b)(ii)(B) and 25 of the Narcotic Drugs and Psychotropic Substances Act, on the allegation that A5 in this case who is the step father of the petitioner used the vehicle for transportation of 2 kgs of ganja, a contraband and he was arrested. With regard to the other accused and their seizure, the petitioner is not aware. The arrest of A5 was known to the petitioner through his mother. He further contended that the petitioner is in Cinema Industry and also in Computer Graphics and thereby, making his earnings. The petitioner's mother after the death of her husband has been living with A5. A5 took the vehicle from the petitioner's mother without the petitioner's knowledge and thereafter, got the vehicle into trouble. The lower Court in the impugned order recorded that the petitioner's vehicle was produced before Court and the same is registered in B Register No.772 of 2023 and thereafter, returned the vehicle with the custody of the respondent Police. Now, the vehicle is kept in the open yard of the Police station exposing to vagaries of weather. The petitioner has been regularly paying EMI to the vehicle of Rs.17,037/- regularly. Due to the detention of the vehilce, the



petitioner is unable to make his earnings and now, the bank authorities are threatening the vehicle will be seized for non-payment of EMI.

3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and objected for return of vehicle to the petitioner stating that during the course of investigation, on the confession of A1 and A2, on 23.06.2023, the respondent Police arrested A4 near Kallikuppam Arch, Ambattur, Chennai and recorded their confession, seized the amount of Rs.7.5 lakhs and 2 kgs of Ganja and also Black Colour Kia car bearing registration No.TN 04 BA 9940 and mobile phones. The seized articles were produced before the Judicial Magistrate, Ambattur and thereafter, before the Principal Special Judge, Special Court under EC & NDPS Act, Chennai. He further submitted that the confession of the accused revealed that the petitioner's vehicle used by the accused for procuring ganja from the State of Andhra Pradesh and they have been using the vehicle for transporting the same and peddling with contraband ganja. A5 in this case is none other than the step father of the petitioner. If the vehicle is returned to the petitioner, in all probability the vehicle will be used for commission of similar type of offence. Hence, strongly opposed the revision.



4.Considering the submissions and on perusal of the materials, it is not in dispute that the vehicle belongs to the petitioner and further, the vehicle is in hypothecation with ICICI Bank Limited. The learned counsel for the petitioner produced the bank statement confirming that the petitioner has been regularly paying EMI for the car of Rs.17,037/-. In this case, A5 is the step father of the petitioner, due to his activities, the petitioner cannot be penalized. The petitioner is in the Cinema Industry as well as in Computer Graphics. The petitioner needs the vehicle for his avocation and further, the petitioner undertakes to give an affidavit that he will not use the vehicle in future for similar type of offences. It is also seen that the vehicle is kept in open yard exposing vagaries of weather. Admittedly, the petitioner is not an accused in Crime No.601 of 2023. 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.

5.In view of the aforesaid reasons, this court is constrained to set aside the order, dated 09.10.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai and the criminal revision case is allowed. In view of the same, the lower Court is directed to return the vehicle bearing registration No.TN 04 BA 9940 Black Colour Kia to the petitioner, on



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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 Principal Special Judge For NDPS & EC Act at Chennai;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records. The learned Principal Special Judge 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 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.

15.11.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

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M.NIRMAL KUMAR, J.

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To

- 1.The Special Court under EC & NDPS Act,
Chennai.
- 2.The Inspector of Police,
T-1 Ambattur Police Station,
Chennai.
- 3.The Public Prosecutor,
High Court, Madras.

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