



WEB COPY



Crl.R.C.No.1966 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.11.2023

CORAM:

THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1966 of 2023

Kamaraj

... Petitioner

Vs.

The State by
The Sub-Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.
Crime No.165 of 2021

... Respondent

PRAYER: Criminal Revision Case filed under Sections 397 r/w. 401 of Cr.P.C, prayed to set aside the order dated 02.06.2023 made in Crl.M.P.No.2162 of 2023 on the file of the Judicial Magistrate, Uthangarai.

For Petitioner : Ms.R.Geethalakshmi,
for Mr.J.Pradeep

For Respondent : Mr.S.Sugendran
Additional Public Prosecutor

ORDER



Crl.R.C.No.1966 of 2023

WEB COPY

This Criminal Revision Case has been filed to set aside the order passed by the learned Judicial Magistrate, Uthangarai in Crl.M.P.No.2162 of 2023 dated 02.06.2023.

2. The petitioner who is the owner of the Auto bearing Registration No.KA01 AK 2588, had filed the return of property petition before the lower court in C.M.P.No.2162 of 2023 and the same was dismissed by the lower court by order dated 02.06.2023, against which the present petition.

3. This auto has been misused and found to carry liquor bottles from the state of Karnataka. The petitioner is not aware about the same. The petitioner is not an accused. The auto is used for the livelihood of the petitioner by hiring the auto and the vehicle has been seized by the respondent police and it has been kept in an open space exposed to the vagaries of weather. Further, the petitioner has to pay finance charges to the



Crl.R.C.No.1966 of 2023

WEB COPY

financier and due to the detention of the vehicle, he is unable to make the payment and the vehicle is likely to be seized by the financier. Hence the petitioner filed a petition for return of property before the lower court. The lower court rejected the petitioner's claim on the ground that the confiscation proceedings initiated.

4. The contention of the petitioner is that till the date of order of the lower court, there was no confiscation proceedings and the petitioner undertakes to maintain the auto as handed over to him and also to produce the same before the lower court as and when required.

5. The Additional Public Prosecutor submits that two persons namely A1/Bharath and A2/Bharathiraja had misused the auto of the petitioner for transportation of 1056 bottles of liquor in 22 boxes. During the routine check, the respondent police stopped the vehicle, found the liquor bottles and seized both the auto and the liquor bottles. The Additional Public



Crl.R.C.No.1966 of 2023

Prosecutor further submitted that confiscation proceedings have now been initiated on 25.09.2023 and hence, opposed the petition.

6. Considering the submission and perusal of the materials, it is seen that on the date of dismissal order of lower court, there was no confiscation. Admittedly, the petitioner is not an accused in this case. It is seen that from the date of registration of FIR, the vehicle is kept in open space and thereby, the value of the vehicle is getting diminished. 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.

7. Further, 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.R.C.No.1966 of 2023

(Crl.) 929” and ordered return of seized vehicle to the owner, which is being

WEB COPY

consistently followed, despite initiation of the confiscation proceedings.

8. The vehicle is kept in open 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.

9. In view of the aforesaid reasons, this court is constrained to set aside the order passed by the learned Judicial Magistrate, Uthangarai made in Cr.M.P.No.2162 of 2023, dated 02.06.2023 and the criminal revision is allowed.

10. The learned Judicial Magistrate, Uthangarai is directed to return the vehicle Ape Auto bearing registration No.KA01-AK-2588 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/-



Crl.R.C.No.1966 of 2023

(Rupees Ten Thousand only), with two sureties each for a like sum to the

WEB COPY

satisfaction of the learned Judicial Magistrate, Uthangarai;

(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 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.



WEB COPY



Crl.R.C.No.1966 of 2023

29.11.2023

nl

Index : Yes/No

Speaking order/Non-speaking order

Neutral Citations: Yes/No



Crl.R.C.No.1966 of 2023

WEB COPY

- To
- 1.The Sub-Inspector of Police,
Singarapettai Police Station,
Krishnagiri District.
 - 2.The Judicial Magistrate, Uthangarai.
 - 3.The Public Prosecutor,
High Court, Madras.



WEB COPY



Crl.R.C.No.1966 of 2023

M.NIRMAL KUMAR,J.

nl

Crl.R.C.No.1966 of 2023



WEB COPY



Crl.R.C.No.1966 of 2023

29.11.2023