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Crl.RC No.1540 of 2022

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 04.01.2023

CORAM:

THE HONOURABLE MR. JUSTICE **V.SIVAGNANAM**

Crl.Rc.No.1540 of 2022

Riyaz Ahamad

... Petitioner

Vs.

State by: The Inspector of Police,
P5, MKB Nagar Police Station,
Chennai, Pulianthope District,
Chennai.

... Respondent

PRAYER: Criminal Revision Case filed under Section 397 and 401 Cr.P.C. to call for the records and set aside the order dated 26.09.2022 in Crl.M.P.No.3195 of 2022 on the file of the Principal Special Court under EC & NDPS Act, Chennai in Crime No.242 of 2022 on the file of the respondent police and to return the seized vehicle, Balaj KTM 200 Duke (200CC) two wheeler, Ceramic White Colour, bearing Registration No.TN 01 BK 8490, Registration Year 2020, bearing Chassis No.MD2 JPCXF7LC013630, Engine Number L-936 16070 to the petitioner.

For Revision Petitioner : Mr. K.Chozhan

For Respondent : Mr.V.Meganathan, Govt.Counsel (Crl.Side)



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ORDER

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This Criminal Revision Petition has been filed to set aside the order dated 26.09.2022 passed in Crl.M.P.No.3195 of 2022 by the Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in Crime No.242 of 2022 on the file of the respondent police and to return the seized vehicle, Bajaj KTM 200 Duke (200CC) two wheeler, bearing Registration No.TN 01 BK 8490 bearing Chassis No.MD2 JPCXF7LC013630, Engine Number L-936 16070 to the petitioner.

2. The learned counsel appearing for the petitioner submitted that the respondent police registered a case in Crime No242 of 2022 for the offences punishable under Sections 8(C), 22(b), 20(b) (ii)(B), 25 and 29(1) of NDPS Act, 1985 and 420 IPC against the three persons, namely Kalayarasu (A1), Kabeerahamad (A2) and Riyazahamad (A3), the petitioner herein. The respondent police prosecuted the case alleging that on 06.04.2022, on receipt of secret information, they went to the occurrence place, where the petitioner and other accused were standing along with a two wheeler bearing registration NO. TN 01 BK 8490 and they found possession of LSD Stamp,



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MDMA pink colour 4 numbers (1.8 grams) and 1.250 kgs. of kanja and seized the same from A1 and A2 and also seized the petitioner's two wheeler bearing registration No.TN 01 BK 8490 and further, they arrested the accused persons. Therefore, the learned counsel submitted that the petitioner has not committed any offence and the contraband was seized only from the other accused; not from the petitioner/A3, however, he has been falsely implicated in this case by the respondent police. The learned counsel also submitted that the petitioner is the owner of the above two wheeler and he filed a petition before the Trial Court to return the vehicle, but it was dismissed by the Trial Court, vide order dated 01.06.2022 passed in Crl.M.P.No.3195 of 2022. Hence, the above said order may be set aside and the two wheeler may be returned to the petitioner.

3. The learned Government Advocate (Crl.Side) filed counter affidavit stating that on receipt of secret information, on 06.04.2022, the respondent police along with the team, went to the place of occurrence, where, the petitioner (A3) and A1 and A2, were standing with a two wheeler bearing registration NO.TN 01 BK 8490 and they seized the contraband from A1 and



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A2. It is further stated that the two wheeler has been registered in the name of the petitioner and the offence is serious in nature. Therefore, if the vehicle is returned to the petitioner, there are every possibilities to commit the same kind of offence, by using the vehicle. He also submitted that the case is under investigation and hence, he vehemently opposed to return the vehicle to the custody of the petitioner.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side), appearing for the respondent and I have perused the materials on record.

5. A perusal of the records reveals that, on 06.04.2022, upon receipt of secret information, the respondent police along with the team went to the place of occurrence and found that the petitioner(A3) and A1 and A2 were standing with a two wheeler bearing registration No.TN 01 BK 8490. Further, they seized the contraband from A1 and A2 and also seized the two wheeler and further, arrested the accused persons and remanded to judicial custody.



6. It is the contention of the petitioner that the respondent police seized the contraband only from A1 and A2 and not from the petitioner(A3). Further, it is the case of the petitioner that, he has not committed any offence as alleged by the respondent police and he just, standing with the other accused persons along with his two wheeler and he did not know about the possession of the contraband by A1 and A2 and hence, the petitioner's two wheeler may be returned to him. In such circumstances, it is to be noted that, at the time of finding possession of the alleged contraband from A1 and A2, the petitioner was also standing with his two wheeler, along with the other accused persons. Therefore, the plea of ignorance by the petitioner about the possession of contraband by A1 and A2, cannot be accepted. Therefore, considering the gravity of the offence committed by the accused persons and the involvement of the vehicle for committing such serious offence, and also taking into account that the investigation is under progress, this Court is not inclined to grant custody of the vehicle to the petitioner. Hence, the Criminal Appeal is liable to be dismissed, as it has no merits.



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7. Accordingly, this Criminal Revision Petition is dismissed.

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Internet: Yes/No

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To:

1. The Principal Special Judge, Principal Special Court,
under EC & NDPS Act, Chennai.
2. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.

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