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Crl.RC No.19 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 10.02.2023**

**CORAM**

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

**Crl.Rc.No.19 of 2023**

Suriyaprakash

... Petitioner

Vs.

State rep. by the Inspector of Police,  
T-14, Pallikaranai Police Station,  
Chennai

... Respondent

**PRAYER:** Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records from the Principal Special Judge for EC & NDPS Act Cases, Chennai in the order passed in Crl.M.P.No.4436 of 2022 on 23.11.2022 and to set aside the same by allowing the Revision Petition.

For Petitioner : Mr.N.Sudharsan

For Respondent : Mr.V.Meganathan

Government Advocate (Crl.Side)



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## **ORDER**

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal Special Judge for EC & NDPS Act Cases, Chennai in Crl.M.P.No.4436 of 2022 on 23.11.2022 and to return the Car Maruti Swift bearing Registration No.TN-07-CP-9396 to the petitioner.

2. The case of the prosecution that, the respondent police registered a case in Crime No.836/2022 for the offences punishable under Sections 8(c) r/w 20(b)(ii)(B), 25 of NDPS Act against three persons, namely Sathishkumar/A1, Kalaiarasan/A2 and Raji/A3, regarding possession and transportation of 6 Kgs of Ganja in a Maruthi Swift car bearing registration No.TN-07-CP-9396 and seized the above said vehicle, mobile phones (2nos.) along with contraband.

3. The petitioner being the owner of Maruthi Swift car bearing registration No.TN-07-CP-9396, filed a petition in Crl.M.P.No.4436 of



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2022 to return the vehicle. But it was dismissed by the Trial Court, vide order dated 23.11.2022. Hence, challenging the above said order, the petitioner filed the present Revision case.

4. The learned counsel for the petitioner submitted that the petitioner is not an accused in Crime No.836/2022 and he is the owner of Maruthi Swift car bearing registration No.TN-07-CP-9396 and he hired his car to his neighbour, namely Kalaiarasan/A2 for a Trip from Chennai to Thirupathi and hence, he is nothing to do with the above said Crime. He further submitted that the petitioner is depending on his vehicle for running his day today life, by hiring the Car and if the vehicle is not returned to him, he will suffer a lot. He also submitted that, if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle and the petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the Trial Court. Hence, he prayed to return the vehicle to the petitioner.



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5. The learned Government Advocate (Crl.Side) submitted that, the petitioner is the owner of the Maruthi Swift car bearing registration No.TN-07-CP-9396. He further submitted that the petitioner used his vehicle for selling Narcotic substances and hence, if the vehicle is released, there is every possibility to use the same, for committing similar nature of offence and hence, he objected to return the vehicle to the petitioner.

6. Heard the learned counsel appearing for the petitioner and the respondent and I have perused the materials on record.

7. A perusal of the records shows that, the respondent police registered a case in Crime No.836/2022 against three persons, namely Sathishkumar/A1, Kalaiarasan/A2 and Raji/A3, regarding possession and transportation of 6 Kgs of Ganja in a Maruthi Swift car bearing registration No.TN-07-CP-9396 and seized the above said vehicle, mobile phones (2nos.) along with contraband. Further, it reveals from the materials that the petitioner is owner of the above Car and it was produced before the



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jurisdictional Court in B.No.223/2022 and the same was returned to the respondent police for safe custody. The Trial Court dismissed the petition in Crl.M.P.No.4436 of 2022, filed by the petitioner, on the ground that he has not produced any document to prove that he hired his vehicle on the date of occurrence. It is the contention of the learned counsel for the petitioner that the Car is the only source to meet out the family expenses of the petitioner and he is ready to give guarantee and security for returning the vehicle and if the vehicle is being kept idle in open space, it would cause damage to the vehicle.

8. At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*** and the relevant portion is extracted hereunder.

### ***Vehicles***

*17. In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate*



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*bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.*

*18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. **In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.***

Therefore, as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that, keeping the vehicle idle in the open space, will diminish its nature and lost its value and no purpose will be served. As such, considering the nature of offence and also taking into account the fact that the vehicle is necessary to the petitioner for his livelihood, this Court is inclined to allow the Revision Petition.



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9. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The respondent police is directed to return the vehicle to the owner of the vehicle on the following conditions.

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of 3,00,000/- (Rupees three lakhs only) before the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai.**
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,
- v. the petitioner shall take photograph of the vehicle; and



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vi.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

**10.02.2023**  
**(2/2)**

Index: Yes/No  
Internet: Yes/No  
mst

**To**

1. Principal Special Judge, Special Court  
under EC & NDPS Act, Chennai-104.
2. The Public Prosecutor, Madras High Court.



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**V.SIVAGNANAM, J.,**

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