



Crl.R.C.No.172 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.172 of 2023

S. Ramkumar

...

Petitioner

Vs.

State rep.by

The Inspector of Police,

T-14, Mangadu Police Station

(Crime No.637/2022)

...

Respondent

PRAYER: Criminal Revision Case filed under Section 397 & 401 of the Criminal Procedure Code, 1973 to call for the records relating to the order dated 09.12.2022 made in Crl.M.P.No.5170 of 2022 in Crime No.637 of 2022 on the file of the learned Principal Special Court under EC & NDPS Act, Chennai and set aside the same and direct the respondent herein to return the vehicle namely, TVS JUPITER, vehicle colour Black, bearing Regn.No.TN-10 BR 6170, Chasis No.MD626EG50N1G03002, and Engine No.GG5GN1202733.

For Petitioner

: Mr.R. Sai Saurya

For Respondent

: Mr.V.Meganathan

Government Advocate (Crl.side)



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ORDER

This Criminal Revision Case has been filed challenging the impugned order dated 09.12.2022 passed in Cr.M.P.No.5170 of 2022 by the learned Principal Special Judge under EC & NDPS Act, Chennai and direct the respondent to release the vehicle TVS Jupiter bearing Registration No.TN-10 BR 6170 which was seized in connection with Crime No637/2022

2.The learned counsel for the petitioner contended that the petitioner is not accused in Crime No.637/2022. The respondent police registered a case against the petitioner/A1 in Crime No.637 of 2022 for the offences punishable under Sections 8(c) r/w. 20(b)(ii)(B) and 25 of the Narcotic Drugs & Psychotropic Substances Act, 1985. The respondent police arrested the petitioner for having illegal possession of 2 kgs of Ganja and seized his vehicle bearing Registration No.TN-10 BR 6170. According to the respondent police, 2 Kgs. of ganja was seized from the petitioner while



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he attempted to sell ganja in his two wheeler. The petitioner's vehicle is not involved previously in any similar type of offences.

3.Further, the learned counsel for the petitioner submitted that no purpose will be served in keeping the vehicle under the custody of respondent police and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. 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 and he is ready to obey any condition imposed on him by this Court.

4.The learned Government Advocate (Crl.side) for the respondent filed a counter and objected to return the vehicle to the petitioner and submitted that though the petitioner is arrayed as accused in this case, the vehicle is not involved in any similar type of offences previously and he has no bad antecedents in this regard.



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5.I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.

6.On perusal of the records, the fact reveals that the respondent police registered a case against the petitioner for having committed offences punishable under Sections 8(c) r/w. 20(b)(ii)(B) and 25 of the Narcotic Drugs & Psychotropic Substances Act, 1985 in Crime No.637 of 2022 on 11.08.2022. Further, on perusal of FIR, it is seen that on 11.08.2022, on receiving secret information about illegal selling of Ganja, the respondent police went to Madhanandhapuram Junction, Mangadu, at that time, the petitioner tried to escape from the scene of occurrence, but immediately he was caught by police. On enquiry and search, they found 2 kgms of ganja and immediately the police arrested the petitioner and seized his vehicle and registered a case in Cr.No.637/2022 against the petitioner on 11.8.2022 for the offences punishable Sections 8(c) r/w. 20(b)(ii)(B) and

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25 of the Narcotic Drugs & Psychotropic Substances Act, 1985.

7.Perusal of records would further reveal that the petitioner is the owner of the vehicle and the vehicle is not involved in any similar type of offences previously. Further, the petitioner 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 and the value of the vehicle is diminished and continuing to keep the vehicle in open air would make the vehicle unusable.

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.

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 lose 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 not involved in any other case similar in nature previously, this Court is inclined to allow the Criminal Revision Case.



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9. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 09.12.2022 passed in Crl.M.P.No.5170 of 2022 by the Principal Special Judge under EC & NDPS Act, Chennai is set aside. The respondent police is directed to return the vehicle TVS Jupiter bearing Registration No.TN-10 BR 6170 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 Rs.75,000/- (Rupees seventy five thousand only) before the Principal Special Court under EC & NDPS Act, Chennai – 104.
- 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.

Index: Yes/No
Internet: Yes/No
msr

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To

1. The Principal Special Court under EC & NDPS Act,
Chennai.
2. The Inspector of Police,
T-14 Mangadu Police Station,
3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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