



Crl.R.C.No.75 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.75 of 2023

Govarthan,

... Petitioner

Vs.

The State Rep. by its,
Inspector of Police,
F-5, Choolaimedu Police Station,
Chennai – 600 094.
Crime No.333 of 2022.

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., pleaded to set aside the order passed in Crl.M.P.No.5740 of 2022 on the file of the Learned Principal Special Court under EC & NDPS Act, Chennai dated 24.11.2022 and also to pass orders to return the vehicle bearing Registration No.TN-06-Z-7385 (TVS NTOUQ 125 Disc BS VI) to the petitioner forthwith and pass orders.



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For Petitioner : Mr.C.Mohanraj
For Respondent : Mr.V. Meganathan
Govt. Advocate (Crl.Side)

ORDER

Challenging the order of dismissal of the petitioner's application filed to return the vehicle under Sections 451 & 457 of Cr.P.C, passed by the Principal Special Court under EC & NDPS Act, Chennai, in Crl.M.P.No.5740 of 2022, dated 24.11.2022, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the vehicle and his name is not found place in the F.I.R. The respondent police registered a case against the accused person A1 & A2 in Crime No.333 of 2022 for the offences under Sections 8 (c) r/w 20(b)(ii) (B), 25 & 29 (1) of NDPS Act, 1985 and seized 1.200 kgs of Ganja from the accused persons and also seized the vehicle TVS NTORQ 125 Disc BS VI bearing Reg.No.TN-06-Z-7385. Further, the learned counsel for the petitioner filed an application seeking for interim custody of the two wheeler and the same was dismissed by the trial Court on the



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ground that he has not produced any document to show that he has rented the vehicle to the accused person. Further, the Learned counsel for the petitioner contended that in the petition, he has not stated that he rented the vehicle to the accused but had given the vehicle to the accused person only as a friend and the accused had misused the vehicle.

3. The Learned Government Advocate (Crl.Side) for the respondent filed counter in which it is stated that based on the secret information, they found in possession of 1.200kgs of Ganja from the accused persons A1 & A2 and the respondent police registered a case in crime No.333 of 2022 under Section 8(c) r/w 20(b)(ii)(B), 25, 29(1) of NDPS Act, against the accused persons A1 & A2 who were earlier committed an offence under Section 379 of I.P.C in crime No.25/2022. However, the petitioner name is not found place in the F.I.R. Therefore, he objected to return the vehicle to the petitioner and pleaded to dismiss the revision petition.

4. On perusal of records, the fact reveals that, the petitioner is the owner of



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the vehicle bearing Reg.No.TN-06-Z-7385. Based on the complaint given by one V.Mareeswaran, the respondent police intercepted vehicle and registered the case in Crime No.333 of 2023 for the offences under Sections 8 (c) r/w 20(b)(ii) (B), 25 & 29 (1) of NDPS Act,1985. The petitioner name is not found place in the F.I.R and he has not involved in any previous case. Therefore, the petitioner is entitled for interim custody of the vehicle.

5. 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 Leave 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 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



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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 on 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, this Court is inclined to allow the Criminal Revision Case.



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6. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-06-Z-7385 to the petitioner for the temporary custody, on complying 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.25,000/-(Rupees Twenty Five Thousand only) before the Principal 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
- vi. The petitioner shall also produce the vehicle as and when required before the Court below and before the respondent police.

7. Accordingly, the Criminal Revision Case is allowed.

24.01.2023

bsm

Index :Yes/No.



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To,

1. The Principal Special Court under EC & NDPS Act, Chennai.
2. The Inspector of Police, F-5, Choolaimedu Police Station, Chennai – 600 094.
3. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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