



Crl.R.C.No.2127 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2127 of 2023

Sher Singh

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Sulur Police Station,
Coimbatore District.
Crime No.619 of 2022.

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.3955 of 2023 on the file of learned Judicial Magistrate Court, Sulur dated 25.11.2022.

For Petitioner	:	Mr.P.Narayana Prasadh
For Respondent	:	Mr.A.Damodaran, Additional Public Prosecutor

ORDER

This Criminal Original Petition has been filed to set aside the impugned order, dated 25.11.2022 in Crl.M.P.No.3955 of 2022 passed by the learned Judicial Magistrate, Sulur.



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2.The petitioner, owner of the vehicle, namely, TATA Harrier bearing Reg.No.TN 57 BK 6190 has filed a petition under Section 451 r/w 457 of Cr.P.C., before the learned Judicial Magistrate, Sulur to return the said vehicle which was seized in Crime No.619 of 2022, for offence under Sections 24(1) of Cigarettes and Other Tobacco Products Act, 2003 r/w 328 IPC. The learned Magistrate dismissed the return of property petition *vide* order, dated 25.11.2022. Feeling aggrieved with the impugned order, the present Criminal Revision Case is filed.

3.The contention of the petitioner is that the petitioner's friend one Hadmata Ram/A3 requested the petitioner for lending his car for the purpose of attending marriage. Believing the representation, the petitioner gave his car, thereafter, the petitioner was informed on 12.10.2022 by the respondent Police that his vehicle was seized for smuggling of contraband. Hence, the petitioner filed a petition for return of property before the lower Court and the lower below, by impugned order, dated 25.11.2022 dismissed the same.

4.The learned counsel for the petitioner submitted that the petitioner is



doing business and for the purpose of his business, he needs the car. A3 being the friend, requested the vehicle for attending marriage. The petitioner in normal course gave the vehicle but he has no idea that A3 would indulge in such activities. He further submitted that the petitioner purchased the said vehicle through Bajaj Finance, due to the detention of the vehicle, the petitioner is unable to make earning. Added to it, the petitioner is also compelled to pay the EMI to the Bajaj Finance, otherwise, the vehicle would be seized by the Finance Company. The vehicle has been kept in open yard exposing to vagaries of weather. Hence, further detention would only make the vehicle unusable.

5.The learned Additional Public Prosecutor appearing for the respondent Police on the other hand objected the same stating that the petitioner admits that his friend took the vehicle from him. All the passengers of the vehicle are from North India i.e., from the State of Rajasthan, who had smuggled 600 kgs of various brand of banned tobacco products for the purpose of business. The tobacco products are menace to the society and it is one of the major cause for cancer. He further submits



that even though the petitioner is not an accused, his vehicle not to be released. The investigation in this case has been completed awaiting for Forensic Science Laboratory Report.

6.Considering the submission and on perusal of the materials, it is seen that the petitioner is the owner of the above said car is not disputed. It is seen that from the date of registration of FIR, the vehicle is kept in open space exposing to vagaries of weather 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.Since the above said car has been used for smuggling of 600 kgs of banned tobacco products, this Court feels that the petitioner to deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) as non-refundable deposit through RTGS/NEFT in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai-600 020, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch.



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8.In view of the aforesaid reasons, this court is constrained to set aside the order passed by the learned Judicial Magistrate, Sular in Crl.M.P.No.3955 of 2022, dated 25.11.2022 and the criminal revision case is allowed.

9.The learned Judicial Magistrate, Sular is directed to return the vehicle TATA Harrier bearing Reg.No.TN 57 BK 6190 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(ii) to (iii):-

(i)The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) as non-refundable deposit through RTGS/NEFT in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai-600 020, bearing A/c No.149710011005477, Andhra Bank, Madhya Kailash Branch.

(ii)On such payment, the petitioner shall produce the proof of payment to the learned Judicial Magistrate, Sular and thereafter, execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate, Sular. The petitioner and the sureties shall affix their



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photographs and give the copies of their Aadhaar Card.

(iii)The petitioner shall not alter or alienate the vehicle in question till the completion of Trial.

(iv)The petitioner shall take photograph of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(v)The petitioner shall submit a photostat copy of R.C.Book before the Judicial Magistrate, Sulur.

(vi) The petitioner shall produce the vehicle as and when directed to do so.

18.12.2023

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

1.The Judicial Magistrate Court,
Sulur.

2.The Inspector of Police,
Sulur Police Station,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR., J.

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