



Crl.R.C.No.2066 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.2066 of 2023

Ramachandhiran

... Petitioner

Vs.

The Inspector of Police,
PEW – Nannilam Police Station,
Tiruvarur District.
Crime No.687 of 2023

... Respondent

Prayer: Criminal Revision Petition filed under Sections 397 r/w. 401 of Criminal Procedure Code, to call for the records and set aside the order passed in Crl.M.P.No.4588 of 2023 on the file of the District Munsif cum Judicial Magistrate, Nannilam dated 11.10.2023 to return the Mahendra KUV 100 car bearing registration No.TN 68 W 6356.

For Petitioner : Mr.R.Shivakumar
for M/s.K.M.Vijayan Associates

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

The petitioner, who is the owner of Mahindra KUV 100 car bearing registration No.TN 68 W 6356 filed a petition before the Lower Court seeking return of property in Cr.M.P.No.4588 of 2023. The Lower Court by order dated 11.10.2023 dismissed the same. Against which, the present petition is filed.

2.The contention of the learned counsel for the petitioner is that the petitioner is not an accused in this case, the petitioner is aged about 72 years and he purchased the car for the purpose of visiting hospital. He would submit that the petitioner's son took the vehicle from the petitioner and case has been registered as through during the routine vehicle check on 19.08.2023 the petitioner's son was driving the car in which Pondicherry labelled liquor bottles were found, the petitioner's son was arrested and the vehicle was seized. He would further submit that the petitioner is not aware about the activities of his son. The car was purchased by the petitioner by availing finance from Canara Bank, Kumbakonam, the petitioner is a retired person



who is in the evening of his life and with great difficulty he is paying the monthly EMI amount as well as taking care of his health. He further submitted that the vehicle was seized and now kept in the open yard exposing to rain and shine thereby the value of the vehicle would get diminished. If the vehicle is continued to retain in such position, it would get rusted and become immobile. He further submitted that the Lower Court dismissed the petition for the reason that confiscation proceedings were initiated but so far the petitioner was not served with notice regarding confiscation proceedings. He would further submit that the Hon'ble Apex Court in the case of “*Sunderbhai Ambalal Desai Versus State of Gujarat*” reported in *AIR 2003 SC 638*”, had given guidelines for return of vehicle and articles to the owner.

3.The learned Additional Public Prosecutor opposed the petitioner's contention and submitted that confiscation notice dated 24.08.2023 was attempted to be served to the petitioner but the petitioner refused to receive the same and the Village Administrative Officer had given the certificate for the same on 31.08.2023, notice was stuck in the petitioner's residence and



photographs were produced. He would submit that the petitioner is not cooperating with the confiscation proceedings or for investigation and taking a defiant stand and making submission that the vehicle has been detained by the Police unwantedly. He further submitted that if the petitioner with proper materials appeared before the confiscation proceedings and if makes out a case for him, appropriate action could be taken. He fairly submitted that the petitioner is not an accused in this case.

4.Considering the submissions made and on perusal of the material, it is not in dispute that the petitioner is the owner of the vehicle, viz., Mahindra car bearing Registration No.TN-68-W-6356. It is also not in dispute that the confiscation proceedings is yet to be completed. The petitioner has not participated in the confiscation proceedings. Section 14 of the Tamil Nadu Prohibition Act contemplates various stages as to how the confiscation to be initiated and completed. In this case, the petitioner has been served with the notice but he refused to receive the same, thereafter notice was stuck in the petitioner's residence and he has not participated in any hearings. In view of the same, the petitioner is directed to participate in the confiscation



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proceedings, make his representation within a period of two weeks from the date of receipt of copy of this order and thereafter, the confiscation authority shall provide an opportunity of hearing to the petitioner and thereafter proceed with the proceedings.

5.This Court in the case of “*Sakthidevi Versus State by The Inspector of Police, Thittachery Police Station, Nagapattinam District in Crl.R.C.No.501 of 2011*”, considered the case of “*David Vs. Sakthivel, Inspector of Police-cum-Station House Officer reported in 2010 1 MLJ (Crl.) 929*” and ordered return of seized vehicle to the owner, which is being consistently followed, despite initiation of the confiscation proceedings. Further, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become immobile. In view of the aforesaid reasons, this court is inclined to set aside the order passed by the learned District Munsif cum Judicial Magistrate, Nannilam.

6.Accordingly, this Criminal Revision Case is allowed and the



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impugned order dated 11.10.2023 passed by the learned District Munsif cum Judicial Magistrate, Nannilam, Kancheepuram District in Crl.M.P.No.4588 of 2023 is set aside. It is not in dispute that the vehicle after seizure was produced before the learned District Munsif cum Judicial Magistrate and thereafter, confiscation proceedings initiated. In view of the same, the learned District Munsif cum Judicial Magistrate, Nannilam is directed to return the vehicle Mahindra KUV 100 car bearing Registration No.TN-68-W-6356 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned District Munsif cum Judicial Magistrate, Nannilam;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

(iii) The petitioner shall not alter or alienate the vehicle in



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any manner till adjudication is over;

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(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(v) The petitioner shall participate in the confiscation proceedings if any initiated and shall produce the vehicle before the confiscation authority. This order is subject to the outcome of the confiscation proceedings.

07.12.2023

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No
cse



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M.NIRMAL KUMAR, J.

cse

To

- 1.The District Munsif cum Judicial Magistrate,
Nannilam.
- 2.The Inspector of Police,
PEW – Nannilam Police Station,
Tiruvarur District.
- 3.The Public Prosecutor,
High Court, Madras.

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