



Crl.R.C.(MD) No.261 of 2023

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 20.03.2023

CORAM:

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

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Lalitha

**... Petitioner/3rd party
owner of the
property**

Vs.

**State represented by
The Inspector of Police,
Kodavasal Police Station,
Thiruvarur.
(Crime No.419 of 2022)**

**... Respondent/
Complainant**

Prayer : This Criminal Revision has been filed under Section 397 r/w 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.6005 of 2022 on the file of Additional District Court / Special Court under Essential Commodities Act, Thanjavur dated 12.12.2022 and to allow the revision and to pass an order to return the Two-wheeler in bearing No.TN-50-AF-7827 KTM Motor Cycle to the petitioner for interim custody.



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For Petitioner : Mr.K.Kumaravel,
For Respondent : Mr.SS.Madhavan,
Government Advocate (Crl. side)

ORDER

This Criminal Revision is directed against the order passed in Crl.M.P.No. 6005 of 2022 dated 12.12.2022 on the file of the Additional District Judge/ Presiding Officer, Special Court under Essential Commodities Act, Thanjavur, dismissing the petition filed under Section 451 Cr.P.C.

2. The case of the prosecution is that 1.300 kgs of Ganja was recovered from two persons including the petitioner's son Bharani Tharan and also seized the two wheeler bearing Registration No.TN-50-AF-7827, which was used for transporting the Ganja and on that basis, the respondent police has registered a case in Crime No.419 of 2022 for the offences under Sections 8(c) and 20(b)(ii)(B) of NDPS Act.

3. It is not in dispute that the respondent police, after recovering of the vehicle, has produced the same before the jurisdictional Court and the concerned



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Court has received and remanded the property in NDCP.No.141 of 2022 dated 12.08.2022.

4. The learned Additional District Judge, by observing that if the vehicle is returned to the petitioner for interim custody, the petitioner may change the colour of the two wheeler and the structure of the two wheeler and the chance of proving the case cannot be curtailed by returning the two wheeler, has dismissed the petition.

5. Admittedly, the petitioner's son is the first accused in the case registered in Crime No.419 of 2022 and the petitioner is the owner of the two wheeler bearing Registration No.TN-50-AF-7827.

6. According to the prosecution, the petitioner's vehicle in dispute has been used by her son Bharani Tharan for transporting the contraband.

7. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that investigation is pending.



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8. The learned counsel appearing for the petitioner would submit that the value of the vehicle will be deteriorated due to the exposure to sun and rain.

9. Considering the facts and circumstances of the case and also the facts that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody and that the reasons assigned by the learned Additional District Judge is not in accordance with law, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 12.12.2022 passed in Crl.M.P.No. 6005 of 2022.

10. Accordingly, this Criminal Revision Petition is allowed and the order dated 12.12.2022 in Crl.M.P.No.6005 of 2022 in Crime No.419 of 2022 on the file of the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur is hereby set aside and the vehicle / two wheeler bearing Registration No.TN-50-AF-7827, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-



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- (a) the petitioner shall execute a bond for a sum of **Rs.75,000/- (Rupees Seventy Five Thousand only)**, with two sureties for a likesum to the satisfaction of the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur;
- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Additional District Judge / Presiding Officer, Special Court under Essential Commodities Act, Thanjavur;
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle; and
- (d) the petitioner shall produce the vehicle before the concerned Court on the first working day of every English calendar month at 10.30 a.m., until further orders;

20.03.2023

NCC : Yes/No
Index : Yes/No
Internet : Yes/No
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K.MURALI SHANKAR, J.

csm

To:-

- 1.The Additional District Judge / Presiding Officer,
Special Court under Essential Commodities Act, Thanjavur.
- 2.The Inspector of Police,
Kodavasal Police Station,
Thiruvarur.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

**ORDER MADE IN
Crl.R.C.(MD)No.261 of 2023**

20.03.2023