



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 23/01/2023

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CORAM:

THE HON'BLE MR JUSTICE G.ILANGOVAN

Crl.RC(MD)Nos.1247 of 1253 of 2022

(1)Crl.RC(MD)No.1247 of 2022:-

Ramasami : Petitioner/Petitioner/3rd party

Vs.

The State represented
by the Inspector of Police,
South Police Station,
Thanjavur District.
(Crime No.1033 of 2022)

: Respondent/Complainant

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to call for the entire records pertaining to the order passed by the Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District, in Crl.MP(MD)No.4823 of 2022, vide order, dated 21/09/2022 and to set aside the same and consequently direct the above said Additional District Judge/Presiding Officer, Special Court under Essential Commodities Act, Thanjavur District to return the petitioner's Ashok Layland Lorry bearing its Registration Number TN-52-F-3256 (Chasis No.MPIKADYC8EECM2617) kept in the custody of the above said Special Court in connection with the case in Crime No.1033 of 2022 on the file of the respondent police and pass such any or other orders.



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For Petitioner : Mr.R.L.Dhilipan Pandian
For Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor

(2)Cr1.RC(MD)No.1253 of 2022:-

Ramesh : Petitioner//3rd party/Owner of the
Property

Vs.

- 1.The State represented
by the Inspector of Police,
Thanjavur Town South Police Station,
Thanjavur District.
(Crime No.1033 of 2022) : 1st Respondent/Complainant
- 2.Asif Raja
- 3.Asarudeen
- 4.Sadam Usain
- 5.Sanjay
- 6.Manickaraj : R2 to R5/Accused

Prayer: Criminal Revision is filed under Section 397 r/w 401 of the Criminal Procedure Code, to set aside the order passed in Cr1.MP No.5613 of 2022 by the Special Court under Essential Commodities Act, Thanjavur, dated 04/11/2022 and order interim custody of the Eicher Lorry bearing Registration No.TN-58-BW-5308, seized by the respondent in connection with Crime No.1033 of 2022 to the petitioner and pass such further or other orders.

For Petitioner : Mr.M.Aanthakumar
For 1st Respondent : Mr.B.Nambiselvan
Additional Public Prosecutor
For R2 to R5 : No appearance



COMMON ORDER

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These criminal revisions have been preferred in order to set aside the impugned orders passed by the trial court and direct them to return vehicle to the petitioner.

2.The facts in brief:-

The petitioners are the owners of the above said alleged two vehicles. The above said vehicles are the case properties in connection with a case in Crime No.1033 of 2022 on the file of the respondent police, for transportation of Ganja. The police seized the above said two vehicles. Seeking for return of the vehicles, the petitioner, in both cases, filed separate petition before the trial court. That came to be dismissed. Against which, these revisions have been preferred.

3.Heard both sides.

4.Even though, the learned Additional Public Prosecutor would submit that a proposal is going to be initiated for confiscating vehicles, it appears that the trial process is not over and now only the investigation is underway. So the contention on the part of the learned Additional Public Prosecutor that the vehicles are liable



to be confiscated, in view of the use in transportation of the contraband cannot be taken into account at this stage.

He would rely upon the judgment of the Hon'ble Supreme Court in the case of ***Ganga Hire Purchase Pvt. Ltd., Vs. State of Punjab and others [AIR 2000 SC 449]*** for the purpose of argument that as per sub section 3 of section 60 of the NDPS Act, a proposal is going to be initiated, confiscation can be ordered only after the completion of the trial process that too subject to the order passed by the trial court. So before that, no confiscation proceedings can be initiated by the police on its own. So this contention is rejected.

5. Since only interim custody of the vehicles has been sought, there is no bar for this court to grant interim custody of the vehicles as per section 451 Cr.P.C. On that sole ground, these revisions are liable to be allowed.

6. In the result, these criminal revisions are **allowed** and the impugned orders passed by the trial court are set aside. The alleged vehicles are ordered to be returned to the petitioner, in both cases, on condition that they must surrender the original RC book before the concerned trial court and on further condition that they



shall execute a bond for a sum of Rs.2,00,000/- along with two sureties each for a like sum to the satisfaction of the trial Judge and on further condition that they must file a undertaking affidavit before the trial court to the effect not he will not alter or change the character of vehicles pending trial process and no steps should be made to sell the property.

7.With the above said condition, these criminal revisions are **allowed**.

23/01/2023

Index:Yes/No
Internet:Yes/No
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To,

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



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G.ILANGOVAN, J

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