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Cr.L.O.P.No.492 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.01.2024

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THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

Cr.L.O.P.No.492 of 2024

Subramani (died)

Backiam
W/o.Late Subramani

... Petitioner

Vs.

State represented by
The Sub-Inspector of Police,
Namakkal Town Police Station,
Namakkal.
Crime No.895 of 2020

... Respondent

Prayer: Criminal Original Petition filed under Section 482 Cr.P.C.,
praying to set aside the docket order made in unnumbered
Cr.L.M.P.Sr.No.1815 of 2023 in Spl.C.C.No.98 of 2023 on the file of
Additional District Judge & Presiding Officer, Special Court under E.C. &
NDPS Act Cases (FAC), Salem, dated 23.11.2023.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

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This Criminal Original Petition has been filed challenging the docket order dated 23.11.2023 wherein the petition filed by the petitioner u/s.451 Cr.P.C. for return of the Car was refused to be entertained on the ground that an earlier petition in C.M.P.No.721 of 2023 was dismissed on 30.06.2023.

2. Heard Mr.W.Camyles Gandhi, learned counsel for petitioner and Mr.A.Damodaran, learned Additional Public Prosecutor, appearing for respondent.

3. The respondent police registered a First Information Report in Crime No.895 of 2020 for offence under the Narcotic Drugs & Psychotropic Substances Act, 1985. During the course of investigation, a car was seized. This Car stood in the name of one Subramani. The Car was utilized for committing the crime and one of the accused person was Elamparuthi [A6], who is the son of the said Subramani. The said Subramani died and the petitioner, who is his wife filed a petition in C.M.P.No.721 of 2023 seeking for interim custody of the Car on the ground that she wanted to change the name in the RC Book before the



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concerned RTO office.

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4. The above petition was dismissed by order dated 30.06.2023 on the ground that the said Subramani had left behind three legal heirs, whereas, the petition was filed without getting no objection from two other legal heirs. Yet another reason that was given by the Court below was that the Car was used for commission of crime, which involves nearly 44 kgs. of Ganja. Hence, considering the stage of the investigation, the Special Court was not inclined to entertain the petition for interim custody.

5. The petitioner, thereafter, obtained no objection from her son and daughter and filed a fresh petition seeking for return of the Car that was seized. This petition was refused to be entertained by the Special Court through the docket order dated 23.11.2023. The same has been put to challenge in this petition.

6. In the considered view of this Court, the scope of the earlier



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petition that was filed in C.M.P.No.721 of 2023 and the scope of the present petition filed seeking for return of the property, is completely different. Hence, the order that was passed in C.M.P.No.721 of 2023, dated 30.06.2023, cannot be put against the petitioner for not entertaining the present petition filed by petitioner. The petition filed by the petitioner will have to be considered on its own merits and in accordance with law.

7. In the light of the above discussion, the Court below is directed to entertain the petition submitted by the petitioner and deal with the same on its own merits and in accordance with law after affording an opportunity to the petitioner.

This Criminal Original Petition is disposed of with the above direction.

10.01.2024

Speaking Order/Non-speaking Order

Index :Yes/No

Neutral citation: Yes/No

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- 1.The Additional District Judge & Presiding Officer,
Special Court under E.C. & NDPS Act Cases (FAC),
Salem.
- 2.The Sub-Inspector of Police,
Namakkal Town Police Station,
Namakkal.
Crime No.895 of 2020
- 3.The Public Prosecutor,
High Court, Madras.



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N.ANAND VENKATESH, J.

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