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Crl.R.C.No.180 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.07.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.180 of 2024

Surendra Singh

... Petitioner

Vs.

The State Rep. by
the Inspector of Police,
Hudco P.S., Hosur.
(Crime No.474/2023)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 09.01.2023 in Crl.M.P.No.5227 of 2023 on the file of the learned Judicial Magistrate No.II, Hosur.

For Petitioner : Mr.K.Prabhakaran

For Respondent : Mr.A.Gopinath,
Government Advocate (Crl. Side)



Crl.R.C.No.180 of 2024

WEB COPY

ORDER

The Criminal Revision is filed, challenging the orders, dated 09.01.2023 passed in Crl.M.P.No.5227 of 2023 by the learned Judicial Magistrate No.II, Hosur.

2. The revision petitioner filed a petition in Crl.M.P.No.5227 of 2023 under Sections 451 & 457 of Cr.P.C., seeking interim custody of the vehicle viz., Hyundai Create Car bearing Reg.No.TN-30-CE-3096. The said petition was dismissed by the learned Judicial Magistrate No.II, Hosur on 09.01.2023. Aggrieved over the said order, the Criminal revision is preferred by the revision petitioner.

3. Mr.K.Prabhakaran, learned counsel for the petitioner contended that the petitioner is the owner of the vehicle viz., Hyundai Create Car bearing Reg.No.TN-30-CE-3096 and the said vehicle was seized by the Respondent Police on 10.12.2023 in Crime No.474/2023 for an alleged offence punishable under Sections 6 and 20 (1) of Cigarette and Other Tobacco Products Acts, 2003 r/w. Section 328 of Indian Penal Code, 1860 and 4(1)(a) of Tamilnadu Prohibition Act. The said vehicle



Crl.R.C.No.180 of 2024

is kept in the custody of Police in open space in the Police Station. If the vehicle is kept in an open space, the value of the same will diminish over the period of time. Therefore he prayed for return of the vehicle.

4. Mr.A.Gopinath, learned Government Advocate (Crl. side) appearing for the respondent contended that the vehicle was used for illegal transportation to Tobacco products without any permission and if the vehicle is ordered to be returned, the petitioner may use the vehicle for committing similar offence. Hence, he sought for dismissal of the petition.

5. At this juncture, it is relevant to refer a decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Leave Petition (Crl.)2745 of 2022 dated 01.10.2002*, wherein, the relevant portion is extracted hereunder:

Vehicles

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking



Crl.R.C.No.180 of 2024

appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

6. Considering the above and the fact that keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time, this Court is inclined to allow the Revision.

7. Accordingly, this Criminal Revision Case is allowed, the impugned order in Crl.M.P.No.5227 of 2023 dated 09.01.2023 passed by



Crl.R.C.No.180 of 2024

the learned Judicial Magistrate No.II, Hosur, is set aside and the vehicle shall be returned to the petitioner on the following conditions:

- i. the petitioner shall prove her ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the trial Court.
- iii. the Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicle bearing Registration No.TN-30-CE-3096 and such panchanama can be used in evidence.
- iv. the petitioner shall take photograph of the vehicle bearing Registration No.TN-30-CE-3096 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- v. the petitioner shall not alienate or encumber the vehicle in any manner;
- vi. the petitioner shall give an undertaking that he will not use



Crl.R.C.No.180 of 2024

the vehicle for any illegal activities in future,

vii.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

03.07.2024

Index: Yes/No
Speaking/Non-Speaking order
Rli

To

1.The Judicial Magistrate No.II, Hosur .

2.The Inspector of Police,
Hudco P.S., Hosur.

M.DHANDAPANI, J.

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Crl.R.C.No.180 of 2024

Crl.R.C.No.180 of 2024

03.07.2024
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