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Crl.R.C.No.325 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 25.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.325 of 2024

R.Sugumar

... Petitioner

Vs.

State rep by:

The Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the impugned order, dated 10/01/2024 in Crl.M.P.No.9701 of 2023 in Crime No.653 of 2023 on the file of the Principal Special Judge in the Principal Special Court under EC & NDPS Act, Chennai.

For Petitioner : Mr.L.Padmavathy

For Respondent : Mr.S.Raja Kumar

Additional Public Prosecutor

ORDER

The petitioner filed a petition in Crl.M.P.No.9701 of 2023 in Crime No.653 of 2023 seeking return of vehicle viz., Honda Activa 6G DLX bearing registration No.TN-12-AP-2219, which was seized by the respondent Police in Crime No.653 of 2023 for offence under Sections 8(c)



r/w 20(b)(ii)(B), 29(1) & 25 of the Narcotic Drugs and Psychotropic Substances Act, 1985 before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai. The learned Principal Special Judge, by order, dated 10.01.2024 dismissed the return of property petition, against which, the present revision is filed.

2.The contention of the petitioner is that the petitioner was employing as Technician in TVS Sundaram Private Limited at Padi and using the said two wheeler to attend his work and return back home at Annanur. The petitioner gets work on shift basis at odd hours, hence, the vehicle is very much required. The petitioner's brother who is residing at Porur had requested the petitioner's two wheeler for urgent work, hence, the petitioner gave the two wheeler. Thereafter, the petitioner came to know that the petitioner's brother along with two others involved in the narcotic case and two wheeler seized. It is submitted that the vehicle is kept in open space exposing to vagaries of weather, further detention of vehicle would make the vehicle unusable, rusted and it would become a scrap. The petitioner is ready to comply with any condition that this Court may impose while



Laboratory, Chennai. If the vehicle is ordered to be released, again the accused will commit similar type of offences. Hence, he prays for dismissal.

4.Considering the submissions made and on perusal of the materials, admittedly, the petitioner is the owner of the two wheeler viz., Honda Activa 6G DLX bearing registration No.TN-12-AP-2219 and he is not an accused in this case. The petitioner's brother/A3 took the said two wheeler in the guise of urgent work, on the other hand he involved in the above case. In this case, 1.200 kgs of ganja seized from A1 and the petitioner's brother was riding the two wheeler along with the other accused.

5.It is seen that from the date of seizure, 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. Added to it, the Apex Court in the case of *Sainaba vs. The State of Kerala and another in Criminal Appeal No.2005/2022 [SLP (CRL.) No.72080/2022]* by following the judgment of



the Apex Court in the case of “**Sunderbhai Ambalal Desai Versus State of**

Gujarat reported in 2002 10 SCC 283” released the vehicle which was involved in the NDPS Act. Further, the learned Additional Public Prosecutor objected return of property by referring to the order of this Court in Crl.R.C.(MD).No.41 of 2019 dated 16.06.2023, but it is seen that in the said order, the decision of the Apex Court in **Sainaba's** case has not been referred to. In view of the decision of the Apex Court on this point as laid down which is binding under Article 141 of the Constitution of India, this Court is inclined to allow return of property.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 10.01.2024 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in Crl.M.P.No.9701 of 2023 in Crime No.653 of 2023 is set aside. In view of the same, the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai is directed to return the vehicle bearing Reg.No.TN-12-AP-2219, on the following conditions:-



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(i)The petitioner shall execute a personal bond for a sum of Rs.5,000/- (Rupees Ten Thousand only) with one surety to the satisfaction of the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai;

(ii)The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove her ownership. The learned Principal Special Judge shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;

(iii)The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(iv)The petitioner shall also give an undertaking that she will produce the vehicle as and when required by the respondent and by the court below.

25.03.2024

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

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- To
- 1.The Inspector of Police,
T-6, Avadi Police Station,
Avadi, Chennai.
 - 2.The Principal Special Judge,
Principal Special Court under EC & NDPS Act,
Chennai.
 - 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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