



Crl.R.C.No.282 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.07.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.No.282 of 2024

Jothi

... Petitioner

Vs.

The State,
Represented by the Inspector of Police,
PEW Nagapattinam,
Nagapattinam District.

... Respondent

PRAYER : Criminal Revision Petition filed under Section 397 r/w. 401 of Cr.P.C., to set aside the order in Crl.M.P.No.5824 of 2023, dated 29.12.2023 passed by the learned Judicial Magistrate No.I, Nagapattinam and direct the respondent to release the Yellow Colour Piaggio Ape Auto bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340 and allow this criminal revision petition.

For Petitioner : Mr.J.Jawahar

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



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ORDER

The criminal revision is filed, challenging the order, dated 29.12.2023 passed in Crl.M.P.No.5824 of 2023 by the learned Judicial Magistrate No.I, Nagapattinam directing the respondent Police to release the Yellow Colour Piaggio Ape Auto bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340 and allow this criminal revision petition.

2. The revision petitioner filed a petition in Crl.M.P.No.5824 of 2023 under Section 451 r/w 457 of Cr.P.C., seeking interim custody of the vehicle viz., Yellow Colour Piaggio Ape Auto bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340. The said petition was dismissed by the learned Judicial Magistrate No.I, Nagapattinam on 29.12.2023. Aggrieved over the said order, the criminal revision is preferred by the revision petitioner.



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3. The learned counsel for the petitioner contended that the petitioner is the owner of the vehicle viz., Yellow Colour Piaggio Ape Auto bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340 and the said vehicle was seized by the respondent Police relating to the case in Crime No.551 of 2023 for the alleged offence punishable under Section 4(1)(aaa) of the Tamil Nadu Prohibition Act. The said vehicle 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 did not raise any serious objection to return the vehicle to the present petitioner.

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*



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Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002,

wherein, the relevant portion is extracted hereunder.

“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 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 fact that keeping the vehicle idle in an open space, would diminish the value of the vehicle over a period of time and considering the dictum laid down by the Hon'ble Supreme Court, this Court is inclined to allow the revision petition.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order in Crl.M.P.No.5824 of 2023 dated 29.12.2023 passed by the learned Judicial Magistrate No.I is set aside and the vehicle shall be returned to the petitioner on the following conditions:

- i. the petitioner shall prove his 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.30,000/- (Rupees Thirty Thousand 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-51-AK-2302 and such panchanama can be used in evidence.

- iv. the petitioner shall take photograph of the vehicle bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340 and certify the same 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 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.
 - viii. the petitioner shall participate in the confiscation proceedings and shall produce the vehicle before the confiscation authority.
- This order is subjected to the confiscation proceedings;



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ix. The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle viz., Yellow Colour Piaggio Ape Auto bearing Registration No.TN-51-AK-2302, Engine No.S8J8902751, Chasis No.MBX0003BFWK730340 shall stand automatically vacated, and this vehicle will be again seized by the respondent / Police and produced before the Court concerned.

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NCC : Yes / No
Index : Yes / No
Speaking Order : Yes / No

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Note: Issue order copy by 01.08.2024.



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To

1. The learned Judicial Magistrate No.I,
Nagapattinam.
2. The Inspector of Police,
PEW Nagapattinam,
Nagapattinam District.
3. The Public Prosecutor,
Madras High Court.



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M.DHANDAPANI, J.

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