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Crl.R.C.No.368 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.368 of 2024

K.Thillaipandiyan Karuthaiya Nadar

... Petitioner

Vs.

State rep by
The Inspector of Police,
T-15 KRMCC, Police Station,
Chennai- 600058.
(Crime No.665/2022)

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 Cr.P.C. of the Code of Criminal Procedure, to call for the records in Crl.M.P.No.1045 of 2024 dated 15.02.2024 on the file of the learned Principal Special Court under EC & NDPS Act, Chennai-104 and set aside the same by allowing the revision petition.

For Petitioner : Mr.D.Vijay

For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor



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ORDER

The petitioner is the owner of the two wheeler TN 10 BB 8553 had filed return of property petition before the lower Court in Crl.M.P.No.1045 of 2024. The trial Court dismissed the petition on 15.02.2024. Against which the present revision petition is filed.

2. The contention of the petitioner is that the petitioner's son has been arrived as 1st accused in this case. The petitioner's son having medical shop at Porur and he was arrested for having illegal possession of 630 numbers of Witadol tablets, 200 numbers of Nitroxit and 170 numbers of Etadol, admittedly it is a scheduled drug. The petitioner had purchased the vehicle availing finance facility and the vehicle was hypothecated. The petitioner is regularly paying the monthly EMI. If the petitioner failed to pay the installment, the financier will take the possession of the vehicle and the petitioner is unable to carry out normal course of his business.



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3. The learned Additional Public Prosecutor has filed his counter and submitted that the case of the prosecution is that on 01.12.202, at about 17.00 hours when Tr.John Bosco, the then Sub Inspector of Police, was in station duty, at that time he received secret information about illegal sale of Narcotic Substance. Based on that, he along with his police team went to the scene of occurrence (i.e.) nearby Vigneshwara Nagar Junction, Kundrathur Road, Porur. At that time two suspicious persons came on that place in Yamaha FZ bike bearing registration No.TN 10 BB 8553, on seeing the police parties the accused try to escape from that place, immediately, the said police parties caught hold of the vehicle and enquired, during the enquiry came to know that the accused person namely Ajay/A1 and Deepan/A2. The respondent police conducted a search in the accused pant pocket and found in possession of 390 Witadol tablets and 100 Nitrovet Tablets in black colour cover and Rs.20,000/- contraband sale amount. Further the respondent police arrested the accused and obtained confession from them. Then the respondent police was seized the contraband under cover of seizure mahazar in the presence of witnesses.



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3.1. It is submitted that based on the above complaint a case was registered in T-15 SRMC P.S., Crime No.665 of 2022, under Sections 8(c), 22(b), 25 & 29(1) of NDPS Act against the accused on 01.12.2022 at about 10.77 hours by Tr.Chandrasekar, the then Inspector of Police and he took up the case for further investigation.

3.2. It is submitted that on the same day (i.e.) 01.12.2022, the then Inspector of Police have arrested the accused A1 & A2 and obtained confession statement from them and also seized the property from them and produced them before the Judicial Magistrate Court No.1, Poonamallee and remanded them into judicial custody.

3.3. It is submitted that during the course of pending investigation, the petitioner/owner of the vehicle, filed a petition under Section 451 of Cr.P.C., for return of vehicle bearing registration No.TN 10 BB 8553 before the Principal Special Court under EC & NDPS Act Cases, Chennai in Crl.M.P.No.1045 of 2024 and the same was dismissed on 15.02.2024.



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3.4. It is submitted that challenging the above order the petitioner filed the present petition before this Hon'ble High Court to call for the records in Crl.M.P.No.1045 of 2024 dated 15.02.2024 on the file of the Principal Special Court under EC & NDPS Act Cases, Chennai and set aside the same by allowing the revision petition.

4. Considering the submission and on perusal of the materials, it is not in dispute that the petitioner is the owner of the vehicle and he is not an accused in this case. The vehicle is financed by the finance company. The petitioner also used the vehicle to go to his shop at Koyambedu. Admittedly, the petitioner has got no bad antecedents other than this case and the vehicle not involved in any case earlier as similar in nature. It is seen that from the date of registration of FIR, the vehicle is kept in open space exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. The Hon'ble Apex Court in the case of “***Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290***”, had given guidelines in the cases of return of property to the owner.



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5. In view of the aforesaid reasons, this court is constrained to set aside the order, dated 15.02.2023 passed by the learned Principal Special Judge, Special Court under EC & NDPS Act, Chennai and the Criminal Revision Case is allowed. In view of the same, the lower Court is directed to return the vehicle bearing registration No.TN 10 BB 8553 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Principal Special Judge For NDPS & EC Act at Chennai;

(ii) The petitioner shall produce the original RC Book of the vehicle and other relevant records. The learned Principal Special Judge shall peruse the RC book and other records, retain xerox copy of the same and return the same to the petitioner with a view to use the vehicle;

(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 he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent and by the court below.



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6. With the above directions, this Criminal Revision Case is allowed.

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Speaking order/Non-speaking order

Index: Yes/No

Neutral Citation: Yes/No

To

1.The Principal Special Court under EC & NDPS Act, Chennai-104

2.The Inspector of Police,
T-15 KRMC, Police Station,
Chennai- 600058.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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