



Crl.R.C.No.390 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 12.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.390 of 2024

S.Vijayaraghavan

... Petitioner

Vs.

The State rep. by its
Station House Officer,
F-3, Nungambakkam Police Station,
Nungambakkam.

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set aside the order passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai-600104 in Crl.M.P.No.1138 of 2024, dated 19.02.2024 and to pass an order directing the respondent to return the Skoda Car bearing registration No.TN-09-AZ-9891 seized in Crime No.156 of 2023 to the petitioner.

For Petitioner : Mr.R.Saravanan

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



ORDER

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The petitioner is the owner of the car Skoda Laura, bearing Registration No.TN-09-AZ-9891, which was seized by the respondent Police in Crime No.156 of 2023 for offences under Sections 8(c) r/w 22(b), 25, 29(1) of the NDPS Act, 1985 on 05.08.2023 from one Devaraj/Accused No.5. The petitioner filed a petition seeking return of property in Crl.M.P.No.1138 of 2024 before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai. The learned Principal Special Judge, by order, dated 19.02.2024 dismissed the return of property petition, against which, the present revision has been filed.

2.The contention of the petitioner is that the petitioner is a businessman and he uses the vehicle for his day-to-day activities. The petitioner has given the car to his friend Devaraj for his urgent personal use. Later, the petitioner came to know that the said Devaraj was arrested by the respondent police in the above case and from him about 11 grams of Methamphetamine, Samsung phone-2, cash of Rs.2,500/- and Skoda Laura Car bearing registration No.TN-09-AZ-9891 were seized. The petitioner



explained to the respondent police that the petitioner is nothing to do with the case and the car has been given to his friend and hence sought for return of the vehicle. The respondent police informed him that the vehicle has been seized and produced before the Court. It is submitted that the vehicle is kept in open space exposing to vagaries of weather, further detention 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 granting return of vehicle. Hence, he prays for return of property.

3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter and submitted that the respondent police after getting information, on 04.08.2023 were keeping a watch near Magalingapuram Bridge adjacent to MLM Marriage Hall. At that time four persons were standing with Honda Activa vehicle bearing registration No.TN-05-CH-3651 and on questioning them, they were giving contradictory statements and later found that A-1 Ganesh was in possession of 21 Grams of Methamphetamine. All the accused A-1 to A4 were arrested. A-1 Ganesh had given a confession about poaching of contraband



by A-5 Devaraj. Then on the next day on 05.08.2023 the said Devaraj was found in possession of 11 grams of Methamphetamine and the same was seized along with Samsung phone-2, cash of Rs.2,500/- and Skoda Laura Car bearing registration No.TN-09-AZ-9891 and he was also arrested. The said Devaraj is A-5 in this case. Further, pending investigation, the petitioner/claimant, filed a petition under Section 451 of Cr.P.C. seeking return of Skoda Laura car bearing Registration No.TN-09-AZ-9891 before the learned Principal Special Judge, Principal Special Court under EC & NDPS Act Cases, Chennai in Crl.M.P.No.1138 of 2024 and the same was dismissed on 19.02.2024. The petitioner is the owner of the vehicle viz., Vijayaraghavan, who is friend of A-5, the accused A-5 has no previous antecedents and also the vehicle was not involved in any other offence. However, if the vehicle is returned there are chances to involve in similar type of offence. In view of the above, he prays for dismissal of the criminal revision case.

4.Considering the submissions made and on perusal of the materials available on record, it is seen that the petitioner is not arrayed as an accused



in this case and his friend Devaraj, who is arrayed as accused, used the vehicle. Further, the petitioner was not seen with other accused and except lending his car to his friend he is nothing to do with this case. 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.



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5. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 10.03.2023 passed by the learned Principal Special Judge, Principal Special Court under EC & NDPS Act, Chennai in CrI.M.P.No.1138 of 2024 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 Skoda Laura car bearing Registration No.TN-09-AZ-9891 to the petitioner, on the following conditions:-

(i) The petitioner shall execute a personal bond for a sum of Rs.10,000/- (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



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manner till adjudication is over;

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

12.03.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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To

- 1.The Station House Officer,
F-3, Nungambakkam Police Station,
Nungambakkam, 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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