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Crl.R.C.No.1012 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.06.2024

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THE HONOURABLE MR. JUSTICE M.DHANDAPANI

Crl.R.C.No.1012 of 2024

S.Gowthaman

... Petitioner

Vs.

Special Sub Inspector of Police,
Prohibition of Enforcement Wing,
Gobichettipalayam
Crime No.298/2024

... Respondents

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order, dated 30.04.2024 in C.M.P.No.2135 of 2024 passed by the learned Judicial Magistrate Court, Sathyamangalam and direct the respondent to return the vehicle viz., TATA Zest XE car bearing Registration No.TN 47 AR 0610 to the petitioner in Crime No.298 of 2024.

For Petitioner : Mr.S.Kaithamalai Kumaran

For Respondent : Mr.A.Gopinath,

Government Advocate (Crl. Side)

ORDER



Crl.R.C.No.1012 of 2024

WEB COPY

The Criminal Revision is filed, challenging the order, dated 30.04.2024 passed in C.M.P.No.2135 of 2024 by the learned Judicial Magistrate, Sathyamangalam.

2. The revision petitioner filed a petition in C.M.P.No.2135 of 2024 under Sections 451 & 457 of Cr.P.C., seeking interim custody of the vehicle viz., TATA ZEST XE Car bearing Reg.No. TN 47 AR 0610. The said petition was dismissed by the learned Judicial Magistrate, Sathyamangalam on 30.04.2024. Aggrieved over the said order, the Criminal revision is preferred by the revision petitioner.

3. Mr.S.Kaithamalai Kumaran, learned counsel for the petitioner contended that the petitioner is the owner of the vehicle bearing Reg.No. TN 47 AR 0610 and the said vehicle was seized by the Respondent Police on 11.03.2024 in Crime No.298/2024 for an alleged offence punishable under Sections 4(1)(a) read with 4(1-A) of TNP 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



Crl.R.C.No.1012 of 2024

same will diminish over the period of time.

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4. The learned counsel for the petitioner further submitted that the petitioner is the owner of the vehicle. The driver has illegally transported liquor from Karnataka. The petitioner is not an accused in the case and his name is not found in the FIR. Therefore he prayed for return of the vehicle.

5. Mr.A.Gopinath, learned Government Advocate (Crl. side) appearing for the respondents contended that the vehicle was used for illegal transportation of liquor bottle from Karnataka 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.

6. 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 Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*, wherein, the relevant portion is extracted hereunder.



Crl.R.C.No.1012 of 2024

Vehicles

WEB COPY

“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.”

7. 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



Crl.R.C.No.1012 of 2024

Court is inclined to allow the Revision Petition.

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8. Accordingly, this Criminal Revision Case is allowed, the impugned order dated 30.04.2024 in Crl.M.P.No.2135 of 2024 passed by the learned Judicial Magistrate, Sathyamangalam, 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 47 AR 0610 and such panchanama can be used in evidence.
- iv. the petitioner shall take photograph of the vehicle bearing Registration No.TN 47 AR 0610 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



WEB COPY



Crl.R.C.No.1012 of 2024

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.

18.06.2024

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



Crl.R.C.No.1012 of 2024

WEB COPY To

1. The Special Sub Inspector of Police,
Prohibition of Enforcement Wing,
Gobichettipalayam
2. The Judicial Magistrate Court, Sathyamangalam.
3. The Public Prosecutor,
High Court of Madras.



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Crl.R.C.No.1012 of 2024

M.DHANDAPANI, J.

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Crl.R.C.No.1012 of 2024

18.06.2024