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CrI.OP.No.20573 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

CrI.OP.No.20573 of 2024

Porkodi

... Petitioner

Vs.

The State Rep by its
Inspector of Police,
Prohibition of Enforcement Wing,
Vellore, Vellore District.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C r/w 528 of BNSS Act, to direct the learned District Special Judge for EC & NDPS Cases, Salem to number the unnumbered CMP.SR.No.434 of 2024 and consequently direct to take on file the same.

For Petitioner : Mr.D.Anbarasu

For Respondent : Mr.S.Udayakumar
Government Advocate (CrI.Side)

ORDER

This Criminal Original Petition is filed being aggrieved by the docket order of the Special Court for NDPS offences, Salem.



CrL.OP.No.20573 of 2024

2. The petitioner has filed an application for return of vehicle stating that the vehicle stands in the name of her husband Late Madasamy who died on 02.11.2020. The Maruthi Alto Car bearing Regn.No.TN-92-A 3152 was seized by the respondent police on 08.03.2023 for alleged transporting of ganja in the said vehicle by the petitioner's son and his friends. The application filed for return of vehicle returned by the learned Magistrate with the following endorsement:

“1. RC Book stands name of Madasamy the petitioner name mentioned as Porkodi without changing name in the RC Book.

2. The petitioner is not entitled to receive the vehicle as the interim custody. In the RC owner alone the owner of vehicle.

How this petition is maintainable.

Hence returned” .

3. Stating that the said Madasamy is none other than husband of the petitioner and she has mentioned about the demise of her husband along with application filed for return of vehicle and also enclosed concerned affidavit of her major sons who are the other legal heirs of



CrL.OP.No.20573 of 2024

Madasamy. Despite that, the trial Court has returned the application on the ground that without changing the name of the owner in the R.C.Book, application for return of vehicle is not sustainable.

4. From the records and the averments made by the petitioner, the vehicle seized by the respondent police for transporting ganja stands in the name of Madasamy, hypothecated to Chola mandalam Investment Finance, Cehnnai. It is stated that the said Madasamy died on 02.11.2020. Despite his demise on 02 11 2020, these legal heirs are not taken any steps to transfer the name, the vehicle was seized by the police on 08.03.2023 ie., nearly 2½ years after the demise of the owner of the vehicle, the present petition is filed for return of the vehicle on the premise that the petitioner been one of the legal heirs of the owner of the vehicle and other two legal heirs have given consent that the vehicle to be returned to her for interim custody.

5. The court below had thought fit that without name transfer, vehicle cannot be handed over to the third party. This Court finds no error in the said reasoning. The owner of the vehicle died in the year 2020 itself. The name transfer not be effected till date ie., even after four



CrI.OP.No.20573 of 2024

years. Without effecting the name transfer, the locus of the petitioner herein to seek for return of vehicle cannot be entertained, even though he is one of the legal heirs of the deceased Madasamy.

6. More particularly, when the vehicle been hypothecated to financial institution and whether the said hypothecation been discharged or not is stated in the application. On records, besides the owner of the vehicle, the finance company hypothecated the vehicle has a charge over it. Therefore, this Criminal Original Petition is dismissed with liberty to the petitioner herein to get the name transfer of the vehicle and seek for return of vehicle.

23.08.2024

Vv

To

1. The District Special Judge for EC & NDPS Cases,
Salem
2. The Inspector of Police,
Prohibition of Enforcement Wing,
Vellore, Vellore District.
3. The Public Prosecutor,
High Court of Madras.



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Crl.OP.No.20573 of 2024

Dr.G.JAYACHANDRAN,J.

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Crl.OP.No.20573 of 2024

23.08.2024