



Crl.R.C.Nos.1295 & 1325 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.09.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.Nos.1295 & 1325 of 2024

Indira ... Petitioner in Crl.R.C.No.1295 of 2024

Vinoth ... Petitioner in Crl.R.C.No.1325 of 2024

Vs.

State, rep. by
The Inspector of Police,
PEW, Mamallapuram Police Station,
Chengalpattu District.
(Crime No.127 of 2024). ... Respondents in both revisions

PRAYER in Crl.R.C.No.1295 of 2024: Criminal Revision Petition filed under Section 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, to set aside the order dated 20.06.2024 made in Crl.M.P.No.289 of 2024 on the file of the District Munsif cum Judicial Magistrate at Thirukalukundram, Chengalpattu District dismissing the petitioner to return the vehicle viz., Maruti Swift VDI Car bearing Registration No.TN-19-L-0500 to the petitioner herein.

PRAYER in Crl.R.C.No.1295 of 2024: Criminal Revision Petition filed under



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Section 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita, to set aside the order dated 20.06.2024 made in Crl.M.P.No.290 of 2024 on the file of the District Munsif cum Judicial Magistrate at Thirukalukundram, Chengalpattu District dismissing the petitioner to return the vehicle viz., Royal Enfield Bike (Classic 350) bearing Registration No.TN-19-AA-2656 to the petitioner herein.

For Petitioners : Mr.R.Sasikumar in both revisions

For Respondent : Mr.A.Damodaran,
Additional Public Prosecutor
in both revisions

COMMON ORDER

The petitioner in Crl.R.C.No.1295 of 2024 is the owner of the car viz., Maruti Swift VDI bearing Reg.No.TN-19-L-0500 who has filed a petition in Crl.M.P.No.289 of 2024 for return of vehicle which was seized in connection with Crime No.127 of 2024 on the file of the respondent Police. The learned District Munsif cum Judicial Magistrate, Thirukazhukundram *vide* impugned order, dated 20.06.2024 dismissed the petition. Against which, Crl.R.C.No.1295 of 2024 is filed.

2.The petitioner in Crl.R.C.No.1325 of 2024 is the owner of the bike viz.,



Royal Enfield Bike (Classic 350 UCE) bearing Reg.No.TN-19-AA-2656 who has filed a petition in Crl.M.P.No.290 of 2024 for return of vehicle which was seized in connection with Crime No.127 of 2024 on the file of the respondent Police. The learned District Munsif cum Judicial Magistrate, Thirukazhukundram *vide* impugned order, dated 20.06.2024 dismissed the petition. Against which, Crl.R.C.No.1325 of 2024 is filed.

3.The learned counsel for the petitioners submitted the petitioner are the owners of the above said vehicles and they are A1 and A2 in Crime No.127 of 2024 for offence under Sections 4(1)(aa) and 4(1-A) of the Tamil Nadu Prohibition Act, 1937. The petitioners purchased the said vehicle by availing loan from financiers. The petitioners used the vehicles for their income, due to detention of the vehicles, petitioners are made to suffer. He further submitted that now the vehicles are kept in open yard exposing to vagaries of weather. Hence, he prays for setting aside the impugned order.

4.The learned Additional Public Prosecutor appearing for the respondent Police filed counter in both revisions and submitted that on 11.02.2024 when the respondent Police were conducting vehicle check at Vallipuram junction, the above said car and two wheeler spotted. On seeing the Police, the Driver of the



car stopped the vehicle and escaped. The person who driven the two wheeler stopped the bike and escaped. Then the Police opened the car and the petitioner/Indira was inside the car. On searching the car, 430 Directors Club Brandy Bottles found and the same were seized along with the car under seizure mahazar. From the confession of the petitioner/Indira, it reveals that the person who driven the two wheeler is her son/A1, the petitioner in Crl.R.C.No.1325 of 2024 and also reveals that Parthiban/A3 purchased the said brandy bottles from Puducherry and handed over the same to A2 and A1. They used to sell the same for personal gain. Thereafter, a case in Crime No.127 of 2024 for offence under Sections 4(1)(aa) and 4(1-A) of the Tamil Nadu Prohibition Act, 1937 registered against A1 to A3, the vehicle and the accused produced before the concerned Magistrate and confiscation proceedings initiated. Hence, the revisions are liable to be dismissed.

5.Considering the submissions and on perusal of the materials, it is not in dispute that the petitioners are the owners of the vehicles viz., Maruti Swift VDI bearing Reg.No.TN-19-L-0500 and Royal Enfield Bike (Classic 350 UCE) bearing Reg.No.TN-19-AA-2656. From the date of registration of FIR, the vehicles are kept in open space and thereby, the value of the vehicle are 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. In this case, admittedly petitioners are accused in the above case, actively participated in the crime.

6.Further, this Court in “***David Vs. Sakthivel, Inspector of Police-cum-Station House Officer*** reported in ***2010 1 MLJ (Crl.) 129***” held that ‘*When the vehicle is involved in the commission of prohibition offence, if there is automatic exercise of power by the Court, Section 14(4) of the Act would become a dead letter. In our view, order of confiscation of a vehicle involved in the commission of offence under Section 14(4) of Tamil Nadu Prohibition Act is not only punitive but also different.*’. In this case, the petitioners' who are the owners of vehicles, are accused who were caught red handed while smuggling liquor bottles. The confiscation proceedings already initiated on the two vehicles.

7.In view of the aforesaid reasons, this Court finds no reason to interfere with the impugned order passed by the learned District Munsif cum Judicial Magistrate, Thirukazhukundram in Crl.M.P.Nos.289 & 290 of 2024, dated 20.06.2024 and the same are hereby confirmed. Accordingly, criminal revision



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cases stand dismissed.

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8.The petitioners are at liberty to participate in the confiscation proceedings, put forth their case, contest and resist confiscation and it is for the confiscation authority to give opportunity to hear the objections of the petitioners and to pass orders on its own merits.

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Speaking Order/Non Speaking Order

Index : Yes/No

Internet : Yes/No

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To

1.The District Munsif cum Judicial Magistrate,
Thirukazhukundram.

2.The The Inspector of Police,
PEW, Mamallapuram Police Station,
Chengalpattu District.

3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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