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IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 06.11.2024

Coram:

THE HON'BLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1525 of 2024

Amarnath

...Petitioner

Versus

State Rep. by
The Inspector of Police,
G-7, Chetpet Police Station.
(Crime No.149 of 2023)

...Respondent

This Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C praying to set aside the order dated 31.01.2024 made in Crl.M.P.No.8739 of 2023 on the file of Principal Special Court under EC & NDPS Act, Chennai and consequently, return the vehicle and to allow the above Criminal Revision Petition.

For Petitioner : Mr.R.Rajadurai

For Respondent : Mr.S.Balaji,
Government Advocate (Crl.Side)



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ORDER

The petitioner herein is the owner of a two wheeler bearing Registration No.TN14-AD-0376. He filed a petition in CrI.M.P.No.8739 of 2023 before the EC & NDPS Court, Chennai for return of his two wheeler, but, the same came to be dismissed on 31.01.2024. Aggrieved over the dismissal of said petition, he has filed the instant Criminal Revision Case.

2. On 14.06.2023, the petitioner had lodged a complaint at the Guduvanchery Police Station, alleging that his two wheeler was stolen and based on the complaint given by him, FIR was registered in Crime No.263 of 2023. However, the petitioner's stolen vehicle could not be traced. In the meanwhile, it appears that the petitioner's stolen vehicle was used for commission of offence under Section 8(c) r/w. 20(b)(ii)(B) of the NDPS Act by certain persons who were accused in Crime No.149 of 2023 on the file of respondent Police.



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3. The learned counsel for the petitioner submitted that the persons who had stolen the petitioner's vehicle had removed the number plate of said vehicle and committed the offence; that the vehicle belongs to the petitioner and therefore, he is entitled to proper custody of the vehicle. He further submitted that the trial Court had dismissed the petition filed by the petitioner for return of his vehicle stating that the petitioner's vehicle was seized under the NDPS Act and is liable to be confiscated.

4. *Per Contra*, the learned Government Advocate (Crl.Side) appearing for the respondent police submitted that it is a fact that the petitioner had earlier lodged a complaint for theft of his two wheeler and the alleged offence took place four months after the said complaint and the petitioner is not involved in the offence under Section 8(c) r/w. 20(b)(ii)(B) of the NDPS Act said to have been committed by the use of his stolen vehicle.

5. Heard the learned counsel on both sides and perused the materials placed before this Court.



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6. Considering the submissions made by the learned counsel on either side, this Court is of the view that the petitioner who had lost his two wheeler, had lodged an FIR four months before the alleged occurrence. The petitioner is not an accused in the NDPS Act. Hence, notwithstanding the seizure of the two wheeler under the NDPS Act, the petitioner is entitled to the return of his two wheeler as he has nothing to do with the alleged offence. This Court is inclined to allow this Civil Revision Case and order for return of petitioner's vehicle, subject to certain conditions.

7. Accordingly, this Civil Revision Case is allowed and the petitioner's vehicle is ordered to be returned, 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, EC & NDPS Court, Chennai – 600 104;

(ii) The petitioner and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the learned Judge may



obtain a copy of their Aadhaar Card or Bank Pass Book to ensure their identity;

(iii) On execution of bond by the petitioner as stated above, the respondent police shall return the subject vehicle to the petitioner, forthwith; and

(iv) The petitioner shall not alienate the vehicle during the pendency of trial proceedings and produce the same as and when required by the respondent Police for the purpose of trial, failing which, the respondent/ trial Court is at liberty to confiscate the subject vehicle.

06.11.2024

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Index: Yes/No

Speaking Order (or) Non-Speaking Order

To

1.The Principal Special Judge,
EC & NDPS Court,
Chennai – 600 104.

2.The Inspector of Police,
G-7, Chetpet Police Station.

3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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