



Crl.R.C.No.1749 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.11.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1749 of 2024

Bhera Ram

... Petitioner/Vehicle owner

Vs.

The State rep. by
The Inspector of Police,
HUDCO Police Station,
Hosur, Krishnagiri District.
Crime No.474/2023.

...Respondent/Complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of the BNSS, to call for the records in Crl.M.P.No.3021/2024 dated 27.08.2024 on the file of the Judicial Magistrate – II, Hosur, setaside the same and direct the respondent police to return the vehicle MARUTI SWIFT DZIRE VDI BS4, Silver Colour Reg.No.GJ35B1317 to the petitioner.

For Petitioner : Mr.S.Sheik Thanveer Ahamed

For Respondent : Mr.V.J.Priyadarsana
Government Advocate (Crl.Side)

ORDER



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The petitioner/owner of the vehicle aggrieved by the dismissal of his petition filed under Section 451 of Cr.P.C. for return of his car seized during investigation in Crime No.474 of 2023 registered for the offence under Section 6, 20(1) of the COTPA Act, 2003, 328 of the IPC and 4(1)(a) of the Tamil Nadu Prohibition Act.

2. The learned counsel for the petitioner would submit that the car was seized on 10.12.2023, and kept idle at the Police Station; that since the petitioner is the owner of the vehicle, he would be entitled to the interim custody of the vehicle in view of the Judgment of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai and others vs. State of Gujarth in Special Leave Petition (Crl.)2745 of 2022*** dated 01.10.2002.

3. The learned Government Advocate (Crl.Side) for the respondent, *per contra*, submitted that the contraband namely 48 pouches of 180 ml Bangalore whisky worth about Rs.1,38,122/- was seized from the petitioner along with the MARUTI SWIFT DZIRE VDI BS4, Silver Colour Reg.No.GJ35B1317.



4. The learned Government Advocate (Crl.Side) for the respondent, further submitted that the confiscation proceedings have been initiated on 09.01.2024 and further action is yet to be taken and the authorities are awaiting the valuation report of the vehicle.

5. Though confiscation proceedings were initiated, further action is yet to be taken. Therefore, considering the fact that the vehicle was seized as early as on 10.12.2023 and it is kept idle in the police station in an open place and would lose its value, this Court is of the view that the vehicle can be returned to the petitioner on stringent conditions subject to the result of the confiscation proceedings.

6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 27.08.2024 passed by the learned Judicial Magistrate No. II, Hosur, in Crl.M.P.No.3021 of 2024 in Crime No. 474 of 2023 is set aside. In view of the same, the respondent police are directed to return the vehicle, MARUTI SWIFT DZIRE VDI BS4, Silver Colour, bearing Reg.No.GJ35B1317 to the petitioner on the following conditions:



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(i) The petitioner shall execute a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs only) with one surety to the satisfaction of the learned Judicial Magistrate No.II, Hosur;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate No.II, Hosur, shall peruse the RC book and other records, retain a 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 manner;

(iv) The petitioner shall also produce the vehicle as and when required by the court below and before the respondent police;

(v) The return of vehicle would be subject to the result of the confiscation proceedings initiated by the respondent.

11.11.2024

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

dk

Note: Issue Order copy by 22.11.2024.



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To

1. The Judicial Magistrate No.II,
Hosur.

2. The The Inspector of Police,
HUDCO Police Station,
Hosur, Krishnagiri District.

3. The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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