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Crl.RC No.1938 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 14.11.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.1938 of 2024

Rajendra Parihar

... Petitioner

Vs.

State represented by
The Inspector of Police,
D-2, Anna Salai Police Station,
Tamil Nadu.
(Cr.No.67 of 2024)

... Respondent

PRAYER: Criminal Revision Case filed under Sections 438 r/w 442 of the BNSS, to call for the records in pertaining to the impugned order in Crl.M.P.No.54801 of 2024 in Cr.No.67 of 2024 dated 11.09.2024 on the file of II Metropolitan Magistrate Court, Egmore, Chennai and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.C.Boobala

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

ORDER

This revision challenges the dismissal order dated 11.09.2024 in Crl.M.P.No.54801 of 2024 passed under Sections 497 and 503 of BNSS, on the petition filed by the petitioner/property owner, seeking interim



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custody of two cars seized by the respondent.

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2. The petitioner is one of the accused in Cr.No.67 of 2024 for the offences under Sections 328 of the IPC and 24(1) of the Cigarette and other Tobacco Products Act, 2003. He is said to have transported contraband in three cars.

3. The learned counsel for the petitioner would submit that out of the three cars seized on 09.05.2024, the learned Magistrate had returned one car. He further submitted that since the vehicles are kept in open space exposed to the vagaries of weather, further retention of vehicles at the police station would make the vehicles unusable, and it would become a scrap. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicles.

4. The learned Government Advocate (Crl.Side) submitted that the petitioner is an accused and therefore, the trial Court has rightly dismissed the petition for return of the cars viz., (I) Mahindra XUV 500 FWD bearing Regn.No.TN-10-BQ-9423 and (ii) Kiger RXZ Petrol MT 10 L ECE bearing Regn.No.TN-11-AY-9754.



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5. It is not in dispute that the petitioner is the owner of the cars and they were seized from the petitioner on 09.05.2024. Since then, the cars are in the custody of the respondent and is kept in the Police Station.

6. The Hon'ble Supreme Court and this Court in several cases have held that the vehicles that are kept idle in an open place and exposed to sun and rain would lose their utility value and should be returned to the person entitled to the interim custody. Therefore, this Court is of the view that cars be returned to the petitioner, pending trial. Further, the confiscation proceedings have not been initiated so far, although it has been recommended by the Superintendent of Police, according to the learned Government Advocate (Crl.Side).

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 11.09.2024 passed by the learned II Metropolitan Magistrate, Chennai, in Crl.M.P.No.54801 of 2024 in Crime No.67 of 2024 is set aside. In view of the same, the respondent police is directed to return the vehicles viz., (I) Mahindra XUV 500 FWD bearing Regn.No.TN-10-BQ-9423 and (ii) Kiger RXZ Petrol MT 10 L ECE bearing Regn.No.TN-11-AY-9754, to the petitioner on the following



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conditions:

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(i) The petitioner shall execute a personal bond for a sum of Rs.8,00,000/- (Rupees Eight Lakhs only) with one surety for a likesum to the satisfaction of the learned II Metropolitan Magistrate, Egmore, Chennai;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicles and other relevant records to prove his ownership. The learned II Metropolitan Magistrate, Egmore, Chennai, shall peruse the RC books and other records, retain a xerox copy of the same and return the original RC books to the petitioner;

(iii) The petitioner shall not alter or alienate the vehicles in any manner till adjudication is over;

(iv) The petitioner shall also give an undertaking that he will produce the vehicles as and when required by the respondent and by the court below.

(v) The return of property would be subject to the confiscation proceedings, if any.

14.11.2024

Index: Yes/No

Speaking/Non-speaking order

Neutral citation: Yes/No.

Issue order copy by : 15.11.2024

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SUNDER MOHAN, J.



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- To
- 1.The II Metropolitan Magistrate,
Egmore, Chennai.
 - 2.The Inspector of Police,
D-2, Anna Salai Police Station,
Tamil Nadu.
 - 3.The Public Prosecutor,
Madras High Court.

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