



Crl.R.C.No.278 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 27.03.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.278 of 2024

Saravanakumar

... Petitioner

Vs.

State rep. by
The Inspector of Police,
Pallikonda Police Station.
(In Crime No.132 of 2022).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Criminal Procedure Code, to call for the records connected with the order dated 02.12.2022 on learned Judicial Magistrate No.V, (FAC) Vellore the file of respondent and set-aside the same as illegal.

For Petitioner : Mr.T.S.Raja
For Respondent : Mr.S.Raja Kumar
Additional Public Prosecutor

ORDER

The petitioner who is the 2nd accused in Crime No.134 of 2022 for offence under Sections 7(5), 20(2) of Cigarette and other Tobacco Products Act, 2003 r/w 328 of IPC, has filed a petition under Section 451 r/w 457 of Cr.P.C., in C.M.P.No.13081 of 2022 before the learned Judicial Magistrate No.V (FAC), Vellore to return the vehicle viz., Mahindra Bolero Maxi Trup



bearing Reg.No.TN-24-AC-9541. The learned Magistrate *vide* impugned order, dated 02.12.2022 dismissed the petition against which the present criminal revision case is filed.

2.The contention of the petitioner is that the 1st accused is the driver of the said vehicle and the vehicle was taken by A1 for loading goods. The petitioner was not informed about transportation of any tobacco product. The petitioner used to hire his vehicle for transportation of goods. Likewise on 16.04.2022 the vehicle was let out for hire and later it came to know that the vehicle was loaded with tobacco products. What is the item which has been loaded in the vehicle, the petitioner or the driver are not aware. It is the party who loaded the vehicle and handed over the invoice. It is not the case that the petitioner was not carrying any invoice and transporting goods. In any event, the petitioner was not present in the scene of occurrence and he was not found along with the vehicle. Only on the confession of A1, the petitioner's name had been included as accused. It is submitted that the vehicle is kept in open space exposing to vagaries of weather, further detention of vehicle would make the vehicle unusable, rusted and it would



become a scrap. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle. Hence, he prays for return of property.

3.The learned Additional Public Prosecutor appearing for the respondent Police filed counter stating that on 16.04.2022 when the Sub Inspector of Police along with other Police personnels were conducting vehicle checkup at Pallikonda Toll Plaza, the vehicle Mahindra Bolero Maxi Trup bearing Reg.No.TN-24-AC-9541 came there. When the Police intercepted the vehicle, the driver of the vehicle/A1 stopped the vehicle and attempted to escape. The Police caught A1 and made enquiry. During it came to light that A1 had illegally transported Hans, Vimal Pan Masala, Swagat Gold, MDM, V-1 Tobacco, Cool lip and Remo Pan Masala. Thereafter, the vehicle was seized along with the tobacco products and then the accused was arrested. On the confession of A1, it came to light that the petitioner/A2 is the owner of the vehicle and gave the vehicle to transport the said tobacco products. If the vehicle is ordered to be released, the petitioner will commit similar type of offences in future. Hence, he prays for



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dismissed.

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4.Considering the submissions and on perusal of the materials, it is seen that the petitioner was not found along with the vehicle at the time of occurrence. The petitioner used to hire his vehicle to known persons for carrying goods. Without any knowledge of the petitioner, A1 had transported the tobacco products. It is seen that from the date of seizure, the vehicle is kept in open space exposing to vagaries of weather, further detention would cause damage to the vehicle, in result, the value of the vehicle will get diminished and vehicle would become immobile.

5.Accordingly, this Criminal Revision Case is allowed and the impugned order dated 02.12.2022 passed by the learned Judicial Magistrate No.V(FAC), Vellore in C.M.P.No.13081 of 2022 is set aside. In view of the same, the learned Judicial Magistrate No.V(FAC), Vellore is directed to return the Mahindra Bolero Maxi Trup bearing Reg.No.TN-24-AC-9541, on the following conditions:-

(i)The petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees



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Ten Thousand only) with two sureties to the satisfaction of the learned Judicial Magistrate No.V(FAC), Vellore.

(ii)The petitioner shall pay a sum of Rs.50,000/- (Rupees fifty thousand only) as non-refundable deposit through RTGS/NEFT in favour of the Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai- bearing Account No.149710011005477, Andhra Bank, Madhya Kailash Branch.

(iii)On such payment and production of proof and also production original RC Book of the vehicle and other relevant records, the learned Magistrate peruse the same, retain xerox copy and return the same to the petitioner with a view to use the vehicle.

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

(v)The petitioner shall also give an undertaking that she will produce the vehicle as and when required by the respondent and by the court below.

27.03.2024

vv2

M.NIRMAL KUMAR, J.



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Index: Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

To

- 1.The Judicial Magistrate No.V(FAC)
Vellore.
- 2.The Inspector of Police,
Pallikonda Police Station.
- 3.The Public Prosecutor,
High Court, Madras.

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