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Crl.R.C.No.2205 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2205 of 2024

G.Govindan

... Petitioner

Vs.

The State rep by its
Inspector of Police,
CSCID Police, Kallakurichi,
Kallakurichi District.
(Crime No.165 of 2024).

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, to call for the records relating to the order passed by the learned Judicial Magistrate No.I, Kallakurichi in Crl.M.P.No.34 of 2024 dated 20.11.2024 and set aside the same and allow this revision petition.

For Petitioner : Mr.D.Babu Varadharajan

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



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ORDER

This Criminal Revision Case has been filed challenging the impugned order, dated 20.11.2024 in Crl.M.P.No.34 of 2024 passed by the learned Judicial Magistrate No.I, Kallakurichi dismissing the petitioner's petition filed under Section 503 of BNSS for return of Dost RLS (BS IV) vehicle bearing Reg.No.TN-91-R-0411 which is said to be involved in Crime No.165 of 2024 for offence under Section 7(1)(a)(ii) of Essential Commodities Act and Section 6(4) of TNCS (RDCS) Order 1982.

2.The petitioner has filed a petition under Section 503 of BNSS seeking return of vehicle before the learned Judicial Magistrate No.I, Kallakurichi and the same was dismissed on the ground that it is for the petitioner to move the appropriate authorities for return of vehicle.

3.The learned counsel for the petitioner would submit that the petitioner is not an accused in the aforesaid case; that the Driver had transported the contraband without the petitioner's knowledge; and that in



any case, subsequent to the seizure, the vehicle is kept in open place and exposed to sun and rain would lose its utility value and should be returned to the person entitled to the interim custody subject to the result of the confiscation proceedings.

4.The learned Government Advocate (Crl. Side) on instructions would submit that the respondent Police have an option to request the concerned District Collector to confiscate the vehicle which was involved in the transportation of the contraband under the Essential Commodities Act; that the respondent Police are yet to take action in this regard; and that the value of the vehicle is around Rs.2,00,000/-.

5.From the date of seizure of the vehicle, the vehicle is kept in a open place under the custody of the respondent Police. The Hon'ble Supreme Court and this Court had repeatedly held that the vehicle cannot be subjected to vagaries of weather and can be returned to the person entitled to the custody subject to the stringent conditions.



6.In the light of the above submissions and considering the fact that the petitioner is the owner of the vehicle, this Court is of the view that the vehicle can be returned to the petitioner on interim custody subject to the result of the confiscation proceedings if any initiated by the respondent.

7.Accordingly, the impugned order, dated 20.11.2024 in Crl.M.P.No.34 of 2024 passed by the learned Judicial Magistrate No.I, Kallakurichi is set aside. Accordingly, the learned Judicial Magistrate No.I, Kallakurichi is directed to return the Dost RLS (BS IV) vehicle bearing Reg.No.TN-91-R-0411 to the petitioner on the following conditions:

(i)The petitioner shall execute a bond for sum of Rs.50,000/- (Rupees Fifty Thousand only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Kallakurichi;

(ii)The petitioner shall produce the original RC Book along with self attested photostat copy of RC Book of the vehicle and other relevant records to prove her ownership. The learned Magistrate shall peruse the RC book and other records, retain xerox copy of the same and return the original RC book to the petitioner;



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(iii)The petitioner shall not alter or alienate the vehicle in any manner;

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

7.In the result, this criminal revision case stands allowed. It is made clear that the above return of vehicle is subject to the outcome of the confiscation proceedings if any initiated.

05.12.2024

Index:Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation: Yes/No

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To

- 1.The Judicial Magistrate No.I,
Kallakurichi.
- 2.The Inspector of Police,
CSCID Police, Kallakurichi,
Kallakurichi District.
- 3.The Public Prosecutor,
Madras High Court.



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SUNDER MOHAN, J.

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