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Crl.R.C.No.2267 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.12.2024

CORAM

THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2267 of 2024

Subbiah

...

Petitioner

Vs.

THE INSPECTOR OF POLICE
CSCID, CHENNAI,
TIRUVALLUR DISTRICT
(CRIME NO. 174/2023)

...

Respondent

Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of Bharatiya Nagarik Suraksha Sanhita Act, 2023 to set aside the order dated 18.11.2024 made in CMP. NO.12077 OF 2024 on the file of Judicial Magistrate No.I at Tiruvallur .

For Petitioner : Mr.P.Chandrasekar
For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (Crl.side)

ORDER

The Revision challenges the dismissal of the petition filed by the petitioner under Section 497 & 503 of BNSS praying for return of the property.



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2. The petitioner is the accused in Crime No.174 of 2023 for the offence under Section 3(1) Solvent Raffinate and Slop (Acquisition, Sale, Storage and Prevention of Use in Automobiles Order 2000 r/w 7(i)(a)(ii) EC Act 1955.

3. The allegation against the petitioner is that he had transported industrial oil without any valid licence and without following the safety measures for transport of industrial oil and thus committed the aforesaid offence. During the course of investigation, vehicle of the petitioner viz. DOST bearing Regn.No.TN 03 AD 0147 was seized by the respondent. The petitioner sought for return of the property which was dismissed by the learned Magistrate, on the ground that confiscation proceedings are likely to be initiated.

4. The learned counsel for petitioner would submit that no confiscation proceedings have been initiated so far; that there are no previous cases against the petitioner; that pursuant to the seizure of the vehicle, it is kept idle in the police station and prayed for release of the property.



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5. The learned Government Advocate (crl.side), on instructions, submitted that the respondent are yet to take steps to initiate confiscation proceedings and the value of the property is Rs.8,00,000/-.

6. Heard the learned counsel appearing for the petitioner as well as the Government Advocate (crl.side) and perused the records.

7. On perusal of the records, it is seen that the vehicle of the petitioner was seized and it is kept in the police station in an open place, subject to the vagaries of weather. The value of the vehicle would therefore diminish. The Hon'ble Supreme Court had held in such cases that the vehicle can be returned to the owner who is entitled to proper custody on conditions. Hence, this Court is of the view that the vehicle be returned to the petitioner.

8. Accordingly, this **Criminal Revision Case is allowed** and the order dated 18.11.2024 made in CMP. NO.12077 OF 2024 on the file of Judicial Magistrate No.I at Tiruvallur is set aside. In view of the same, the respondent is directed to return the vehicle bearing Registration No.**TN 03**

AD 0147 Dost to the petitioner on the following conditions:



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(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.I at Tiruvallur ;

(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.I at Tiruvallur 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 give an undertaking that he will produce the vehicle as and when required by the respondent and by the court below.

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

17.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No



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SUNDER MOHAN, J.

rgr

To

1.The Judicial Magistrate No.I
Tiruvallur

2.The Inspector of Police
CSCID, Chennai ,
Tiruvallur District

3.The Public Prosecutor,
High Court, Madras.

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