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CRL.R.C. No. 2368 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.12.2024

CORAM

THE HON'BLE MR. JUSTICE SUNDER MOHAN

CRL.R.C. No. 2368 of 2024

Loganathan

..Petitioner

Vs.

The State represented by
The Sub Inspector of Police,
CSCID Police Station,
Vellore district.
(Crime No. 195 of 2024).

..Respondent

Prayer: Criminal Revision Petition under Section 438 r/w 440 BNSS to set aside the order dated 04.10.2024 made in Crl. M.P. No. 10715 of 2024 by the learned Judicial Magistrate No.IV, Vellore District.

For Petitioner :: Mr.M. Sarath Kumar

For Respondent :: Dr.C.E. Pratap
Govt. Advocate (Crl.Side)



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ORDER

The revision challenges the dismissal of the petitioner's application in Crl.M.P. No. 10715 of 2024 filed for return of property under Section 497 BNSS by order dated 04.10.2024 by the learned Judicial Magistrate No.IV, Vellore District.

2. The petitioner is an accused in Crime No. 195 of 20024 registered for offences under Section 6(4) of TNSC (RDCS) Order 1982 r/w Section 7(1)(a)(ii) of Essential Commodities Act, 1955.

3. The allegation against the petitioner is that 34 kgs and 700 gms of PDS rice was smuggled in a TATA Motors Tarrus Lorry bearing Registration No. TN 12 1306 and the car bearing Registration No.TN 11 AP 2777 was also used for commission of the offence. During the course of investigation, the car of the petitioner was seized on 03.08.2024.

4. The petitioner sought return of property by filing an



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application in Crl.M.P. No. 10715 of 2024 before the Lower Court and the same was dismissed by the order under challenge on the ground that the petitioner is involved in a serious offence and if the vehicle is returned, he would not produce the car during the course of trial.

5. Learned counsel for the petitioner would submit that the property is in the Police Station and subjected to vagaries of weather; that retention of the vehicle at the Police Station would diminish its value and prayed for return of the vehicle stating that the petitioner is ready to abide by any stringent condition that may be imposed.

6. Learned Government Advocate (Crl.Side), on instructions, would submit that the petitioner has no previous case and no confiscation proceedings have been initiated so far.

7. In the light of the above submissions, this Court is of the view that the vehicle cannot be kept idle in an open space and its value cannot be allowed to be diminished as held by the Hon'ble Supreme Court.



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8. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 04.10.2024 passed by the learned Judicial Magistrate No.IV, Vellore District, in Crl.M.P.No.10715 of 2024 in Crime No.195 of 2024 is set aside. In view of the same, the interim custody of the vehicle can be handed over to the petitioner, who is admittedly the owner of the vehicle and the respondent is directed to return the vehicle viz., Maruti Swift ZDI Car (Pearl Arctic White) bearing Registration No. TN 11 AP 2777 and Engine No. D13A-3513669 and Chassis No. MBHCZC 03SKE416147 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.3,00,000/- (Rupees Three Lakhs only) with two sureties each for a likesum to the satisfaction of the learned Judicial Magistrate No.IV, Vellore District;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC



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Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate No.IV, Vellore District, 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.

21.12.2024

Index : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

To

1. The Judicial Magistrate No.IV, Vellore District.
2. The Sub Inspector of Police,
CSCID Police Station, Vellore District.

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SUNDER MOHAN,J.

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