



CrI.R.C.(MD)No.46 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

WEB COPY

Dated : 28.02.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

CrI.R.C.(MD)No.46 of 2024

Justin Joseph Raj

.. Petitioner

Vs.

The State rep. by,
The Inspector of Police,
Kaliyakkavilai Police Station,
Kanniyakumari District.
Crime No.83 of 2022

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 21.11.2023 passed in CrI.M.P.No.13331 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and set aside the same.



WEB COPY



Crl.R.C.(MD)No.46 of 2024

For Petitioner : Mr.J.Senthil Kumaraiah

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

Challenging the dismissal order passed by the learned Judicial Magistrate No.I, Kuzhithurai, in Crl.M.P.No.13331 of 2023 dated 21.11.2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Hyundai i20 car bearing registration No.TN 74 AK 5238 by the respondent/Inspector of Police, Kaliyakkavilai Police Station, Kanniyakumari District., in Crime No.83 of 2022.

2. The case of the prosecution is that the petitioner is that on 2703.2022, the respondent police has registered case against the petitioner in Crime No.83 of 2022 for the alleged offence punishable under Section 294(b), 307, 506(2), 302, 148, 149 of IPC and Section 6(4) of TNSC(RDCS) order 1992, Section 7(1)(a)(ii) of the Essential Commodities Act. It is alleged that the petitioner along with other



Crl.R.C.(MD)No.46 of 2024

accused involved in the aforesaid offences and they used the alleged vehicle viz., Hyundai i20 car bearing registration No.TN 74AK 5238 for the commission of offence. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the above said vehicle. The learned Judicial Magistrate No.I, Kuzhithurai, vide order dated 21.11.2023 dismissed the said petition. Aggrieved over the said order, the present Criminal Revision Case is filed.

3. The respondent filed a counter affidavit wherein, *inter-alia*, it is stated that the case was taken on file in S.C.No.139 of 2022 and the same is pending for trial. The petitioner has committed the offence by using the said vehicle which is of serious in nature and hence, opposed for allowing the petition.

4. Heard, Mr.J.Senthil Kumaraiah, learned counsel for the revision petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondent.



5. The learned counsel for the petitioner submitted that the present petitioner is not involved in any offence and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.

6. Mr.A.Thiruvadikumar, learned Additional Public Prosecutor did not raise any serious objection to return the vehicle to the present petitioner.

7. It is relevant to refer a decision of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***AIR 2003 SC 638***, wherein, the relevant portion is extracted hereunder.

Vehicles

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any



point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order, dated 21.11.2023 passed by the learned Judicial Magistrate No.I, Kuzhithurai, in Crl.M.P.No.13331 of 2023, is set aside. The learned Judicial Magistrate No.I, Kuzhithurai, is directed to



Crl.R.C.(MD)No.46 of 2024

return the vehicle to the owner of the vehicle on the following

conditions :

i) the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;

ii) the R.C.Book shall be deposited in the Court and the Court shall issue a certificate in this regard.

iii) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Judicial Magistrate No.I, Kuzhithurai.

iv) the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle – Hyundai i20 car bearing registration No.TN 74 AK 5238 and such panchanama can be used in evidence.

v) the petitioner shall take photograph of the vehicle bearing registration No.TN 74 AK 5238 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.



WEB COPY



Crl.R.C.(MD)No.46 of 2024

vi) the petitioner shall not alienate or encumber
the vehicle in any manner;

vii) the petitioner shall give an undertaking that
she will not use the vehicle for any illegal activities in
future;

viii) the petitioner shall also produce the vehicle
as and when required before the court below and
before the respondent police.

28.02.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
PJJ

Copy to
The Judicial Magistrate No.I, Kuzhithurai.

To
1.The Inspector of Police,
Kaliyakkavilai Police Station,
Kanniyakumari District.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



WEB COPY



Crl.R.C.(MD)No.46 of 2024

VIVEK KUMAR SINGH, J.

PJL

Crl.R.C.(MD)No.46 of 2024

28.02.2024