



Crl.R.C.(MD)No.79 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 12.03.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

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P.Santhanam

.. Petitioner

Vs.

The State through
The Inspector of Police,
Checkanurani Police Station,
Madurai District,
Crime No.252 of 2023

... Responder

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records and set aside the order dated 08.01.2024 passed in Crl.M.P.No.2975 of 2023 on the file of the learned Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases,



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Madurai and to grant interim custody of the vehicle to the petitioner by allowing this Criminal Revision.

For Petitioner : Mr.S.Srikanth

For Respondent : Mr.R.Sivakumar,

Government Advocate (Crl. Side)

ORDER

Challenging the dismissal order passed by the learned Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, in Crl.M.P.No.2975 of 2023 dated 08.01.2024, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Etios Silver Color Car bearing registration No.TN 59 BS 7353 by the respondent/Inspector of Police, Checkanurani Police Station, Madurai District, in Crime No.252/2023 for the alleged offences punishable under Sections 8(c) r/w. 20(b)(ii)(B), 25 and 29(1) of NDPS Act, 1985.



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2. The case of the prosecution is that on 29.06.2023, the respondent police on a secret information visited Sikkampatti Crematorium, whereby, on search, they found four persons were in possession of 1.250 kilograms of contraband. The said contraband was seized along with the vehicles. Thereafter, the respondent Police has registered FIR. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the vehicle, namely, Etios Silver Color Car bearing registration No.TN 59 BS 7353. The learned Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, vide order, dated 08.01.2024 dismissed the said petition. Aggrieved over the said order, the present Criminal Revision Case is filed.

3. Heard, Mr.S.Srikanth, learned counsel for the revision petitioner and Mr.R.Sivakumar, learned Government Advocate (Crl. Side) appearing for the respondent.

4. 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.

5. Per contra, the learned Government Advocate submitted that the respondent police has stated that investigation is pending in this matter. He further contended that the vehicle was used for illegal transportation of Ganja and if the vehicle is ordered to be returned, he may use the vehicle for committing similar offence. Hence, he sought dismissal of the petition.

6. 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



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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.”

7. Accordingly, this Criminal Revision Petition is allowed



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and the impugned order, dated 08.01.2024 passed by the learned Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is set aside. The Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai, is directed to 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 petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Additional District Judge, Principal Special Court for Trial of Narcotic Drugs and Psychotropic Substances Act Cases, Madurai.

iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the Car - Etios Silver Color bearing registration No.TN 59 BS 7353.



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and such panchanama can be used in evidence.

iv) the petitioner shall take photograph of the vehicle bearing registration No.TN 59 BS 7353 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.

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

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

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

12.03.2024

Index : Yes / No
Internet : Yes / No
NCC : Yes / No
RM



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Copy to

1.The Additional District Judge,
Principal Special Court for Trial of Narcotic Drugs
and Psychotropic Substances Act Cases,
Madurai

To

1.The Inspector of Police,
Checkanurani Police Station,
Madurai District.

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



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VIVEK KUMAR SINGH, J.

RM

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