



Crl.R.C.(MD)No.115 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 08.02.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

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Bala Ganesh

.. Petitioner

Vs.

The Forest Range Officer,
Palayamkottai Branch,
Tirunelveli Forest Range,
W.L.Or.No.17/23
Tirunelveli District.

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order dated 27.10.2023 made in Crl.M.P.No.26230 of 2023 on the file of the learned Judicial Magistrate No.V, Tirunelveli, pertaining to Crime No.339 of 2023 on the file of the respondent police and set aside



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the same and allow this revision petition and direct the learned Judicial Magistrate No.V, Tirunelveli to release the petitioner's Motor Vehicle Car (Scorpio Classic S11 MT7S, Pearl White) vide Registration No.TN 59 CQ 7878 before the learned Judicial Magistrate No.V, Tirunelveli, in Crime No.W.L.Or.No.17/23 registered by the respondent.

For Petitioner : Mr.I.Velpradeep

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

Challenging the dismissal order passed by the learned Judicial Magistrate No.V, Tirunelveli, in Crl.M.P.No.26230 of 2023 dated 27.10.2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Scorpio Classic S11 MT7S, Pearl White, bearing Registration No.TN 59 CQ 7878 by the respondent, in Crime No.W.L.Or.No.17/23 for the alleged offences punishable under Sections 9, 39(1)(b), 49(A), 50(1), 52, 57 of Wild



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Life (Protection) Act, 1972 r/w. Section 7, 25(1)(a), 25(1)(b) of Arms Act.

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2. The case of the prosecution is that on 15.08.2023, all accused were unlawfully assembled together and hunted three spotted deer by making a land mine near the garden of Accused No.1 patta land. Therefore, all the accused were arrested and the meat of the deer was secured by them and a case was registered in Crime No.W.L.Or.No.17/23. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the above said car. The learned Judicial Magistrate No.V, Tirunelveli, vide order dated 25.10.2023 dismissed the said petition on the ground that this Court has no power to grant interim custody of the vehicle, as per the decision of the Honourable Apex Court. Aggrieved over the said order, the present Criminal Revision Case is filed.

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is the owner of the said



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vehicle and since the above said vehicle was used for committing the crime and to transport the meat of spotted deer, it was seized and the case property was kept in the respondent office and hence, he objected to return the vehicle to him and hence, prayed for dismissal of the revision petition.

4. Heard, Mr.I.Velpradeep, learned counsel for the revision petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

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

6. Per contra, the learned Additional Public Prosecutor



contended that the vehicle was used for illegal transportation of meat of spotted deer and if the vehicle is ordered to be returned, he may use the vehicle for committing the similar offence. Hence, he sought for dismissal of the petition.

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 25.10.2023 passed by the learned Judicial Magistrate No.V, Tirunelveli, is set aside. The learned Judicial Magistrate No.V, Tirunelveli, 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 deposit a sum of Rs.1,00,000/- (Rupees One Lakh Only) in cash to the credit of Crl.M.P.No.26230 of 2023, on the file of the learned Judicial Magistrate No.V, Tirunelveli.

iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the four wheeler – Scorpio Classic S11 MT73 pearl white, bearing Registration No.TN 59 CQ 7878 and such panchanama can be used in evidence.

iv) the petitioner shall take photograph of the vehicle bearing registration No.TN 59 CQ 7878 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as a secondary evidence.

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

vi) the petitioner shall give an undertaking that



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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.

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Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM

Copy to

1.The Judicial Magistrate No.V,
Tirunelveli,



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To

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- 1.The Forest Range Officer,
Palayamkottai Branch,
Tirunelveli Forest Range,
Tirunelveli District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

RM

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