



Crl.R.C.(MD)No.161 of 2024

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Dated : 14.02.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.(MD)No.161 of 2024

Arumugam

.. Petitioner/ Owner of
the Vehicle

Vs.

The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi District.
(In Crime No.310 of 2023)

.. Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate No.III, Thoothukudi in Cr.M.P.No.531 of 2024 vide order dated 24.01.2024 and consequently, direct to return the petitioner's vehicle Maruti EECO 5 STR AC bearing TN 72 BB 1156 (Chasis No.MA3ERLF1S00386476) to the petitioner.



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For Petitioner : Mr.C.Karthikeyan

For Respondent : Mr.A.Thiruvadi Kumar

Additional Public Prosecutor

ORDER

Challenging the dismissal order dated 24.01.2024 passed by the learned Judicial Magistrate No.III, Thoothukudi in Cr.M.P.No. 531 of 2024, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Maruti EECO 5 STR AC bearing TN 72 BB 1156 (Chasis No.MA3ERLF1S00386476) in Crime No.310 of 2023 for the alleged offences punishable under Sections 4(1)(a) & 14A of the Tamil Nadu Prohibition Act, 1937.

2. The case of the prosecution is that on 27.12.2023 the petitioner's vehicle was seized on the allegation that the vehicle was used to transport of liquor, viz., White and Blue Whiskey 4 bottles each contains 750 ml., Sunny XXX Rum-24 bottles, each contains 750 ml, Morpheus Brandy-5 bottles each contains 750 ml and Madira XXX Rum-1 bottle contains 750 ml. Against which the petitioner filed a



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petition in Cr.M.P.No.531 of 2024 under Section 451 r/w 457 Cr.P.C for return of the above said vehicle. The learned Judicial Magistrate No.III, Thoothukudi vide order dated 24.01.2024 dismissed the said petition. 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 vehicle and since the above said vehicle was used for committing the crime and to transport of liquor, 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 Criminal Revision Petition.

4. Heard, Mr.C.Karthikeyan, 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 of the offence as alleged by the prosecution 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 liquor 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



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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.”



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8. Accordingly, this Criminal Revision Petition is allowed and the impugned order, dated 24.01.2024 passed by the learned Judicial Magistrate No.III, Thoothukudi, is set aside. The learned Judicial Magistrate No.III, Thoothukudi, 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.50,000/- (Rupees Fifty Thousand Only) in cash to the credit of Crl.M.P.No. 531 of 2024, on the file of the learned Judicial Magistrate No.III, Thoothukudi;

iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the four wheeler – Maruti EECO 5 STR AC bearing TN 72 BB 1156 (Chasis No.MA3ERLF1S00386476) and such panchanama can be used in evidence.



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iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 72 BB 1156 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 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

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To

- 1.The Judicial Magistrate No.III, Thoothukudi.
- 2.The Inspector of Police,
Pudukkottai Police Station,
Thoothukudi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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M.DHANDAPANI, J.

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