



Crl.R.C.(MD)No.155 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 06.03.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD)No.155 of 2024

Muneeswaran

.. Petitioner

Vs.

The Inspector of Police,
Vanniyampatti Police Station,
Virudhunagar District.
Crime No.112 of 2023

... 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 24.11.2023 in Crl.M.P.No.10773 of 2023 on the file of the learned Magistrate No.2, Srivilliputhur, set aside the same as illegal and consequently, direct to release the petitioner's vehicle on interim custody.



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For Petitioner : Mr.D.S.Haroon Rasheed

For Respondent : Mr.M.Muthumanikkam,

Government Advocate (Crl. Side)

ORDER

Challenging the order passed by the learned Magistrate No.II, Srivilliputhur, in Crl.M.P.No.10773 of 2023 dated 24.11.2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Ertiga Car bearing registration No.TN 19 U 1454 and consequently, for a direction to the respondent to release of the vehicle.

2. The petitioner is the owner of the aforesaid vehicle bearing registration No.TN 19 U 1454. On 10.06.2023, at about 07.40 Hrs., the respondent police intercepted the car bearing registration No.TN 19 U 1454 and seized the vehicle as the same was used illegally for carrying banned tobacco products ie., 588 pockets of



Ganesh 710 Tobacco weighing 225 grams, 200 pockets of Vimal Tobacco weighing 84 grams, 5 pockets each weighing 9 grams of VI Tobacco for sale and for personal gain. Hence a case has been registered in Crime No.112 of 2023 for the offence under Section 328 of IPC and Sections 6(b) and 24(1) of Cigarette and other Tobacco Products Act, 2003. The petitioner has approached the learned Judicial Magistrate No.II, Srivilliputhur, for returning the said vehicle in Crl.M.P.No.10773 of 2023 and the learned Judicial Magistrate, vide order dated 24.11.2023, has dismissed the petition. Aggrieved over the same, the present Criminal Revision Case has been filed by the petitioner.

3. The learned counsel for the petitioner submitted that the respondent has kept the vehicle for about seven months in an open space allowing the condition of the vehicle to deteriorate day by day and due to this, the vehicle will get diminished and would become immovable. In support of his submission, learned counsel relied upon the judgment of the Hon'ble Apex Court in ***Sunderbhai Ambalal Desai***



vs. State of Gujarat reported in *AIR 2003 SC 638* and submitted that the petitioner is entitled for interim custody of the vehicle pending confiscation.

4. The learned Additional Public Prosecutor submitted that the FIR clearly revealed that the vehicle was engaged to carry the banned tobacco products for sale and for personal gain. Furthermore, if the vehicle is returned, the accused will indulge in the same illegal activities and hence, opposed for allowing the petition.

5. Considering the facts and circumstances of the case and in the light of the decision of the Hon'ble Supreme Court in the case of *Sunderbhai Ambalal Desai vs. State of Gujarat* reported in *AIR 2003 SC 638*, this Court is of the opinion that instead of keeping the vehicle idle exposing to sun and rain, the vehicle may be returned to the petitioner, however on certain conditions. The respondent is directed to return the vehicle of the petitioner on the following conditions:-



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i) The petitioner shall execute a bond for a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) with two sureties each for a like-sum to the satisfaction of the learned Judicial Magistrate No.II, Srivilliputhur.

ii) the petitioner shall prove his ownership of the vehicle by producing the R.C. Book and other relevant records; and directed to deposit the original R.C. Book before the lower Court; in the event of deposit, the lower Court is directed to inform the concerned Registering Authority about the deposit of R.C. Book.

(iii) The petitioner shall not alienate (or) materially change (or) alter the vehicle in any manner.

(iv) The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.



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(v) The petitioner shall produce the vehicle before the Court and before the respondent Police as and when required.

7. With the above directions, the Criminal Revision Case is disposed of.

06.03.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

PKN



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Copy to

1.The Judicial Magistrate No.II,
Srivilliputhur.

To

1.The Inspector of Police,
Vanniyampatti Police Station,
Virudhunagar District.

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



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VIVEK KUMAR SINGH, J.

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