



Crl.R.C.(MD).No.444 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved On	:	29.04.2024
Pronounced On	:	16.08.2024

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD). No.444 of 2024

Seeni Haja Mohammed

... Petitioner/Accused No.14

Vs.

1. State represented through
The Inspector of Police,
Dindigul Taluk Police Station,
Dindigul District.
(In Crime No.625 of 2022)

2. State Represented through
The Inspector of Police,
PEW P.S., Dindigul.

... Respondent /Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed dated 22.03.2024 in Crl.M.p.no.578 of 2024 by the Additional District Judge/Presiding Officer, Principal Special Court for EC & NDPS Act Cases, Madurai and set aside the same as illegal subsequently direct the Additional District Judge/Presiding Officer, Principal Special Court for EC & NDPS Act Cases, Madurai to return the case property i.e., car bearing registration No.TN59 CE 8629 to petitioner,



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which seized in Crime No.625 of 2022 on the file of the 2nd Respondent Police Station.

For Petitioner : Mr.A.Naresh Prabu

For Respondents : Mr.B.Nambiselvan,
Additional Public Prosecutor

ORDER

The petitioner, who is arrayed as A14 in Crime No.625 of 2022, on the file of the Respondent Police filed this petition to set aside the order passed in Cr.M.P.No.578 of 2024, dated 22.03.2024, by the learned Additional District Judge/Presiding Officer, Principal Special Court for EC and NDPS Act Cases, Madurai, and to direct the learned Additional District Judge/Presiding Officer, Principal Special Court for EC and NDPS Act Cases, Madurai, to return the case property ie., car bearing registration No.TN 59 CE 8629 to the petitioner, which was seized in Crime No.625 of 2022. He and others are said to have committed offence under Sections 8(c) r/w 20(b)(ii)(c), 29(1) and 25 of the NDPS Act, 1985.

2. According to the prosecution, on 17.10.2022, at about 03.00 a.m., the Respondent Police, upon receipt of secret information, intercepted two cars bearing Registration Nos. TN 07 BF 7616 and TN 72 DF 3510, wherein, A1 to



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A3 were travelling. When the respondent police intercepted the vehicle, A4 escaped from the scene of the occurrence. The respondent police found 440 Kgs of contraband in the said car. On the basis of confession of A1 to A3, the remaining accused A4 to A13 were implicated. Following the said car, A4, A6 and A14 travelled in another car bearing Registration No.TN 59 CE 8629. The same was also found by the Investigation Agency and therefore, they were also arrayed as accused. Subsequently, the petitioner was released on bail and filed a petition in Cr.M.P.No.578 of 2024 under Section 451 Cr.P.C., seeking interim custody of the said vehicle. The learned trial judge dismissed the said petition on the ground that the petition to release the vehicle is not maintainable on the basis of the order of this Court in the case of ***Muhammed Shan Vs. The State*** reported in ***CDJ 2024 MHC 1937***. Challenging the same, the petitioner filed this revision before this Court.

3.The learned counsel for the petitioner submitted that this Court in similar circumstances released the vehicle. He further submitted that there was no allegation against the petitioner that he is in possession of the contraband. Even according to the prosecution, he only followed the said vehicle. In the said circumstances, he seeks for the interim custody of the vehicle.



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4.The learned Additional Public Prosecutor on instructions, submitted that as per the direction of the Honourable Supreme Court, the Drug Disposal Committee was appointed. The said vehicle was entrusted with the Drug Disposal Committee and the Drug Disposal Committee also initiated proceedings as per the Act. In the said circumstances, he is not entitled to seek the interim custody. He also reiterated the reasoning of the learned trial judge that the petition to release the interim custody is not legally maintainable on the basis of the judgment of this Court in the case of *Muhammed Shan Vs. The State* reported in ***CDJ 2024 MHC 1937***.

5.This Court considered the rival submission made on either side and perused the records and the impugned order.

6.Admittedly, the petitioner was arrayed as A14 in this case. Even as per the allegation, they are part of the conspiracy to transport the illegal transportation of the Ganja weighing 440 Kgs,. that is why? they followed the vehicle in which, the contraband was recovered from A-1 to A-3. In the said circumstances, this Court is satisfied prima facie about the involvement of



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vehicle. Apart from that, the learned trial judge is correctly dismissed the petition on the basis of the judgment of this Court in the case of ***Nahoorkani Vs. The State*** (Crl.R.C.(MD).No.41 of 2019, dated 16.06.2023) followed by another judgment in the case of ***Muhammed Shan Vs. The State*** reported in ***CDJ 2024 MHC 1937***. This Court finds no reason to differ with the finding of learned trial judge. This Court in the case of ***Nahoorkani Vs. The State*** (Crl.R.C.(MD).No.41 of 2019, dated 16.06.2023) specifically held that Section 451 of Cr.P.C., is not applicable. Once the involvement of the vehicle satisfied the proceedings under Sections 60, 61, 62 and 63 of the NDPS Act, the petition under Section 451 of Cr.P.C., is not maintainable. Apart from that, under Sections 52A and 63 of NDPS Act, the Special Court has power to confiscate the vehicle. In the said circumstances, in view of the law laid down by this Court in the case of ***Nahoorkani Vs. The State*** (Crl.R.C.(MD).No.41 of 2019, dated 16.06.2023) followed by another judgment in the case of ***Muhammed Shan Vs. The State*** reported in ***CDJ 2024 MHC 1937*** and followed by this Court in number of cases, this Court is not inclined to entertain the revision,. Apart from that, there is a prima facie material to show that there is a conspiracy between this accused and the other accused, who said to have travelled in another car going in front of the petitioner car. Even the petitioner car was present at the scene of occurrence



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following the vehicle containing the contraband. The petitioner has not explained the same and hence, in view of the submission of the learned Additional Public Prosecutor that the vehicle is entrusted to the Drug Disposal Committee, the vehicle cannot be released.

7. With this observation, this Criminal Revision Petition is dismissed. The petitioner is at liberty to participate in the confiscation proceedings.

16.08.2024

NCC : Yes/No
Index : Yes/No
Internet: Yes/No
sbn



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- To
1. The Additional District Judge/Presiding Officer,
Principal Special Court for EC & NDPS Act Cases,
Madurai.
 2. The Inspector of Police,
Dindigul Taluk Police Station, Dindigul District.
 3. The Inspector of Police,
PEW P.S., Dindigul.
 4. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
 5. The Section Officer,
Criminal Section(Records),
Madurai Bench of Madras High Court, Madurai.



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K.K.RAMAKRISHNAN, J.

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Pre-delivery Order made in
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