



Crl.O.P.(MD)No.11699 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 05.11.2024

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THE HON'BLE MR.JUSTICE M.NIRMAL KUMAR

Crl.O.P.(MD)No.11699 of 2024

Gokul Prasad

: Petitioner

Vs.

State Represented by
The Inspector of Police,
Sempatti Police Station,
Dindigul District.

Crime No.195 of 2024

: Respondent

PRAYER : Criminal Original Petition filed under Section 528 of BNSS, 2023, to call for the records and set aside the Docket order dated 03.07.2024 made in unnumbered Crl.M.P.No.....of 2024 on the file of the learned Principal Special Court for EC & NDPS Act Cases, Madurai pertaining to Crime No.195 of 2024 on the file of the respondent police and to number the above said criminal miscellaneous petition.

For Petitioner : M/s.R.Shunmathi Priya

For Respondent : Mr.A.Thiruvadikumar
Additional Public Prosecutor



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ORDER

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The petitioner/owner of the vehicle has filed this petition seeking to set aside the Docket order dated 03.07.2024 made in unnumbered Crl.M.P.No. of 2024 on the file of the learned Principal Special Court for EC & NDPS Act Cases, Madurai pertaining to Crime No.195 of 2024 on the file of the respondent police and to number the above said criminal miscellaneous petition.

2.The contention of the petitioner is that the respondent police seized the petitioner's Lorry on 06.06.2024. The petitioner purchased the second-hand lorry two months prior, for transportation business. The accused involved in Crime No.195 of 2024 is neither friend nor known person to him. The petitioner gave advertisement for a driver for his business and thereafter, the accused contacted the petitioner, joined as a driver. He does not know the accused, the petitioner purchased the vehicle by availing loan from TVS Credit Services Private Limited and that the petitioner repaying the loan amount, otherwise, the vehicle is liable to be confiscated. Further, the petitioner's vehicle was booked by TCI Freight to transport motor-pumps from Coimbatore to West Bengal and again booked



by Sri Vishwa Traders for the agricultural products to be transported from Karnataka to Madurai. Without the knowledge of the petitioner, the driver had committed the offence and hence, the vehicle has been seized.

3.The trial Court not considered the merits of the case and technicality and returned the petition by citing a order of this Court in ***Nahoorkani Vs. The Inspector of Police, Puliyangudi Police Station, Tirunelveli District [Crl.R.C.(MD)No.41 of 2019, dated 16.06.2023]***.

4.In this regard, the learned counsel for the petitioner submitted that the Judgment of the Hon'ble Apex Court in ***Sainaba Vs. State of Kerala*** reported in **2022 (7) KHC 273**, held that return of property to be entertained and considered, even in the vehicle involved in NDPS Act cases, following the ***Sunderbhai Ambalal Desai's case*** and further, the High Court of Kerala in a batch of cases, had interpreted the word “conveyance” and held that all vehicles cannot be termed as conveyance and I had an occasion to deal with a similar case in Crl.R.C.No.1322 of 2024, followed the above decisions cited *supra* following the Supreme Court Judgment, allowed the said petition on 21.08.2024.



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5.In view of the above, the trial Court cannot return the petition.

Hence, this Criminal Original Petition is allowed and the docket order, dated 03.07.2024, made in unnumbered Crl.M.P.No. of 2024 on the file of the learned Principal Special Court for EC & NDPS Act Cases, Madurai, is hereby set aside. The petitioner is directed to represent the petition before the trial Court. On filing of such petition, the trial Court is directed to entertain the petition and pass orders on its own merits.

05.11.2024

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

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Note : Registry is directed to return the originals and typed set to the petitioner, who shall represent the same before the Special Court.

To

1.The Principal Special Court for EC & NDPS Act Cases, Madurai.

2.The Inspector of Police,
Sempatti Police Station,
Dindigul District.

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



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M.NIRMAL KUMAR,J.

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