



Crl.R.C.(MD)No.893 of 2024

WEB COPY BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.09.2024

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THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

Crl.R.C.(MD)No.893 of 2024

Nattuthurai

... Petitioner

Vs.

State rep.by
The Sub-Inspector of Police,
Oddanchatram Police Station,
Dindigul District.

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to set aside the order passed by the learned Judicial Magistrate, Oddanchatram in Cr.M.P.No.7071 of 2023, dated 05.01.2024 and order interim custody of the Car bearing Reg.No.KA-01-Mz-2294 with the petitioner as sought for, which was seized by the respondent on 09.11.2023.

For Petitioner : Mr.D.Venkatesh

For Respondent : Mr.K.Sanjai Gandhi
Government Advocate (Crl. Side)



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ORDER

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The Criminal Revision is directed against the order passed in Cr.M.P.No.7071 of 2023, dated 05.01.2024 on the file of the learned Judicial Magistrate, Oddanchatram, dismissing the petition filed under Section 457 of Cr.P.C.

2. The petitioner claims to be the owner of the Car bearing Reg.No.KA-01-Mz-2294. On 09.11.2023, the respondent police has registered a case in Crime No.576 of 2023 for the offences under Sections 6(a), 24(1) of Cigarette and other Tobacco Products Acts 2003 and Section 4(1)(a) of Tamil Nadu Prohibition Act and seized the above said vehicle bearing Reg.No.KA-01-MZ-2294 for the alleged illegal transportation of Tobacco products.

3. It is not in dispute that the petitioner has approached the learned Judicial Magistrate, Oddanchatram, for returning of the said vehicle in CrI.M.P.No.7071 of 2023 and the learned Judicial Magistrate, vide order dated 05.01.2024, has dismissed the petition. Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.



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4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the petitioner is the owner of the vehicle and is not the accused in this case, that the petitioner is not having any previous cases for similar offence and that the said vehicle was not involved in any other cases.

6. The learned counsel appearing for the petitioner would submit that the vehicle bearing Reg.No.KA-01-MZ-2294 is owned by the petitioner, that the said vehicle has no connection whatever with the alleged occurrence, that the vehicle is with the police for the past ten months, that if the vehicle is kept in open place, the value of the said vehicle will get deteriorated and that therefore interim custody may be granted to the petitioner.



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7.The learned Magistrate, by observing that the confiscation proceedings has already been initiated, dismissed the petition. But, the learned Government Advocate (Criminal Side) would submit that they have only sent the proposal for initiating the proceedings and it is yet to be initiated.

8. Considering the facts and circumstances of the case and also the fact that if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody, this Court is inclined to allow the revision and thereby setting aside the impugned order dated 05.01.2024 passed in Crl.M.P.No.7071 of 2023, by the learned Judicial Magistrate, Oddanchatram.

9. Accordingly, this Criminal Revision Petition is allowed and the order dated 05.01.2024 passed in Crl.M.P.No.7071 of 2023 by the learned Judicial Magistrate, Oddanchatram, is hereby set aside and the vehicle/ Car bearing Reg.No.KA-01-MZ-2294, is ordered to be returned



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to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions:-

- (a) the petitioner shall execute a bond for a sum of **Rs.4,00,000/- (Rupees Four Lakhs only)**, with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Oddanchatram;
- (b) the petitioner shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Oddanchatram;
- (c) the petitioner shall not alienate and shall not make any alteration in the vehicle;
- (d) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

19.09.2024

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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K.MURALI SHANKAR,J.

das

To

- 1.The Judicial Magistrate,
Oddanchatram.
- 2.The Sub-Inspector of Police,
Oddanchatram Police Station,
Dindigul District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Order made in
Crl.R.C.(MD)No.893 of 2024

Dated: 19.09.2024