



Crl.R.C.(MD)No.1430 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 01.03.2024

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THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD)No.1430 of 2023

Mohammed Safeeq

.. Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
In Crime No.200 of 2023

... Respondent/Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 and 401 of the Criminal Procedure Code, to call for the records pertaining to the order dated 25.10.2023 passed in Cr.M.P.No.11945 of 2023 on the file of the learned Judicial Magistrate No.I, Kuzhithurai and set aside the same by allowing this Criminal Revision Petition.

For Petitioner : Mr.P.T.Ramesh Raja

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor



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ORDER

Challenging the dismissal order dated 25.10.2023 passed by the learned Judicial Magistrate No.I, Kuzhithurai in Cr.M.P.No. 11945 of 2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Hyundai Eon Car bearing registration No.TN 83 4808 by the respondent/Inspector of Police, Marthandam Police Station, Kanyakumari District, in Crime No.200 of 2023.

2. The case of the prosecution is that the accused illegally transported banned Tobacco products in the petitioner's vehicle viz., Hyundai Eon Car bearing registration No.TN 83 4808 and the same were recovered by them from the accused along with the said vehicle.

3. According to the learned counsel for the petitioner, the petitioner does not have any knowledge about the said occurrence. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the above said vehicle in Cr.M.P.No.11945 of 2023. The



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learned Judicial Magistrate No.I, Kuzhithurai, vide order dated 25.10.2023 dismissed the said petition. Aggrieved over the said order, the present Criminal Revision Case is filed.

4. The learned Additional Public Prosecutor has stated that according to the prosecution case, banned Tobacco products were illegally transported in the petitioner's vehicle viz., Hyundai Eon Car bearing registration No.TN 83 4808.

5. Heard, Mr.P.T.Ramesh Raja, learned counsel for the revision petitioner and Mr.A.Thiruvadi Kumar, learned Additional Public Prosecutor appearing for the respondent.

6. The learned counsel for the petitioner submitted that the present petitioner has not involved in any offence as alleged by the prosecution and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.



7. Mr.A.Thiruvadikumar, learned Additional Public Prosecutor did not raise any serious objection to return the vehicle to the present petitioner.

8. 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 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



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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.”

9. Accordingly, this Criminal Revision Petition is allowed and the impugned order, dated 25.10.2023 passed by the learned Judicial Magistrate No.I, Kuzhithurai, is set aside. The learned Judicial Magistrate No.I, Kuzhithurai, 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;



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ii) the R.C.Book shall be deposited in the Court and the Court shall issue a certificate in this regard.

iii) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Judicial Magistrate No.I, Kuzhithurai.

iv) the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle – Hyundai Eon Car bearing registration No.TN 83 4808 and such panchanama can be used in evidence.

v) the petitioner shall take photograph of the vehicle- Hyundai Eon Car bearing registration No.TN 83 4808 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.

vi) the petitioner shall not alienate or encumber the vehicle in any manner;

vii) the petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in



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future;

viii) the petitioner shall also produce the vehicle
as and when required before the court below and
before the respondent police.

01.03.2024

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



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1.The Judicial Magistrate No.I, Kuzhithurai

To

1.The Inspector of Police,
Marthandam Police Station,
Kanyakumari District.
In Crime No.200 of 2023

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



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VIVEK KUMAR SINGH, J.

CM

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