



Crl.R.C.(MD)No.142 of 2024

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 09.02.2024

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

Crl.R.C.(MD)No.142 of 2024

S.Dharmaraj

.. Petitioner

Vs.

The State, rep. by
The Forest Ranger,
Srivilliputtur,
Virudhunagar District.
WLOR.No.10 of 2023

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the entire records pertaining to the order passed by the learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District, in Crl.M.P.No.6638 of 2023 vide order dated 31.07.2023 and set aside the same and consequently, direct



Crl.R.C.(MD)No.142 of 2024

the above said learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District to return the petitioner's TN 67 BF 4777 Royal Enfield Black Bullet 350 ES vehicle and Samsung Galaxy A-14 5G mobile kept in the grant interim custody of the above said learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District, in connection with the case in WLOR.No.10 of 2023 on the file of the respondent police.

For Petitioner : Mr.R.L.Dhilipan Pandian

For Respondent : Mr.B.Nambiselvan

Additional Public Prosecutor

ORDER

Challenging the dismissal order passed by the learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District, in Crl.M.P.No.6638 of 2023 dated 31.07.2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Royal Enfield Black Bullet 350 ES bearing Registration No.TN 67 BF



Crl.R.C.(MD)No.142 of 2024

4777 and Samsung Galaxy A-14 5G mobile phone by the respondent, in Crime No.WLOR.No.10 of 2023 for the alleged offences punishable under Chapter-I, Section 2(14), (16), (a) (c) & Chapter V Section 39(1) (b)(d), 2, 3(a) (b) (c) (5), Section 40(2), Chapter V-A Section 49-A(a), Chapter VI Section 50, 51 of Wild Life Protection Act, 1972.

2. The case of the prosecution is that on 03.06.2023 at 12.00 a.m. Sriviliiputtur Forest Ranger along with forest officials on receipt of secret information found that the petitioner and other accused persons possess 16.894 kgs of Whale Sap (Ambergris) and has tried to sell the same. Therefore, all the accused persons were arrested and the vehicle and mobile phone were also seized and a case was registered in Crime No.WLOR.No.10 of 2023. The present revision petitioner filed a petition under Section 451 of Cr.P.C. for return of the above said vehicle and mobile phone. The learned Judicial Magistrate No.II, Srivilliputtur, vide order, dated 31.07.2023, dismissed the said petition. Aggrieved over the said order, the present Criminal Revision Case is filed.



Crl.R.C.(MD)No.142 of 2024

3. The learned Additional Public Prosecutor appearing for the respondent submitted that the petitioner is the owner of the said vehicle and since the above said vehicle was used for committing the crime and to transport the Whale Sap (Ambergris) for selling, it was seized and the case property was kept in the respondent office and hence, he objected to return the vehicle and phone to him and hence, prayed for dismissal of the Criminal Revision Petition.

4. Heard, Mr.R.L.Dhilipan Pandian, learned counsel for the revision petitioner and Mr.B.Nambiselvan, learned Additional Public Prosecutor appearing for the respondent and perused the materials available on record.

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



6. Per contra, the learned Additional Public Prosecutor contended that the vehicle was used for illegal transportation of 16.895 kg Whale sap (Ambergris) and if the vehicle is ordered to be returned, he may use the vehicle for committing the similar offence. Hence, he sought for dismissal of the petition.

7. 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



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Crl.R.C.(MD)No.142 of 2024

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 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.”

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order, dated 31.07.2023 passed by the learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District, is set aside. The learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District, is directed to return the vehicle to the owner of the vehicle on the following conditions :



Crl.R.C.(MD)No.142 of 2024

i) the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;

ii) the petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) in cash to the credit of Crl.M.P.No.6638 of 2023, on the file of the learned Judicial Magistrate No.II, Srivilliputtur, Virudhunagar District.

iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the two wheeler – Royal Enfield Black Bullet 350 ES, bearing Registration No.TN 67 BF 4777 and Samsung Galaxy A-14 5G mobile phone such panchnama can be used in evidence.

iv) the petitioner shall take photograph of the vehicle bearing registration No.TN 67 BF 4777 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as a



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Crl.R.C.(MD)No.142 of 2024

secondary evidence.

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

vi) the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;

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

09.02.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM



Crl.R.C.(MD)No.142 of 2024

Copy to

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1.The Judicial Magistrate No.II,
Srivilliputtur,
Virudhunagar District,

To

1.The Forest Range Officer,
Palayamkottai Branch,
Tirunelveli Forest Range,
Tirunelveli District.

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



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Crl.R.C.(MD)No.142 of 2024

M.DHANDAPANI, J.

RM

Crl.R.C.(MD)No.142 of 2024

09.02.2024