

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 21.07.2015

CORAM

THE HONOURABLE MR. JUSTICE B.RAJENDRAN

Criminal Revision Case No.721 of 2015

Sekar

... Petitioner

versus

The State rep. by the Inspector of
Police, Thoosi Police Station,
Thiruvannamalai District.

... Respondent

Prayer:- Criminal Revision Case filed under Sections 397 and 401 of Cr.P.C. to set aside the order dated 22.06.2015 made in C.M.P.No.2799 of 2015 on the file of the Judicial Magistrate, Cheyyar.

For Petitioner : Mr.G.Gubendiran

For Respondent : Mr.V.Arul, G.A. (Crl.)

O R D E R

The Criminal Revision Case is directed against the order dated 22.06.2015 made in C.M.P.No.2799 of 2015 by the learned Judicial Magistrate, Cheyyar.

2. The matter is listed today before me under the caption, 'for admission'.

3. The crux of the case is as follows:

The petitioner is the owner of the vehicle bearing Registration No.TN.09-R-2387 and on 05.05.2015, the said vehicle was seized by the respondent on the ground that it was involved in transporting illegal sand. Subsequently, the respondent has registered a case against the petitioner under Sections 430, 379 of IPC read with 2(1) of Mines and Minerals Act in Crime No.139 of 2015. Hence, the petitioner has filed a petition in Crl.M.P.No.2799 of 2015 before the learned Judicial Magistrate, Cheyyar seeking interim custody of the vehicle, but the same was dismissed by the said Magistrate on the ground that the petitioner has not produced licence for transporting sands. Aggrieved over the same, the petitioner is before this Court with this revision.

4. The learned Counsel for the petitioner would submit that the petitioner is the owner of the vehicle, viz., TN.09-R-2387 and the

said vehicle was seized by the respondent police for using the said vehicle for the commission of the offence under Sections 430, 379 of IPC read with 2(1) of Mines and Minerals Act by the petitioner. It is contended that the petitioner has nothing to do with the alleged offence. He would further submit that in view of the seizure of the said vehicle, the vehicle is exposed to sun and rain and the condition of the vehicle would be deteriorating day by day. Therefore, the learned counsel for the petitioner would further submit that the petitioner would be put to great hardship and irreparable loss if the vehicle is not given as an interim custody to him.

5. Learned Government Advocate (Crl. Side) appearing for the respondent would submit that if the vehicle is ordered to be returned to the petitioner as an interim custody, the petitioner will utilise the said vehicle for sand smuggling. The learned Government Advocate would further submit that the petitioner has falsely stated before the court below that the petitioner has got licence to transport the sand. Therefore, the present Revision has to be dismissed.

6. At the outset, it is not in dispute that a lorry bearing Registration No.TN.09-R-2387 which belongs to the petitioner herein was involved in transporting illegal sand and the same was seized by the respondent police in connection with Crime No.139 of 2015. Therefore, a petition under Sections 451 and 457 was filed by the petitioner before the learned Judicial Magistrate, Cheyyar in CMP.No.2799 of 2015 for returning the said vehicle. In that connection, it appears that though the petitioner has falsely stated that he has got valid licence to transport the sand, he has failed to produce the said licence. Hence, the learned Magistrate dismissed the said petition by an order dated 22.06.2015. Aggrieved over the same, the petitioner is before this Court with this revision.

7. Though in such kind of matters, following a decision of the Supreme Court in Sunderbhai Ambalal Desai case reported in 2003 SCC (Cri) 1943, the Courts are taking lenient view taking into consideration of the facts and circumstances of each case, in this case, the petitioner has misused the said leniency by going to the extent of stating that he has got valid licence to transport the sand. Therefore, the petition filed before the court below was rightly dismissed by the learned Magistrate concerned on merits. Hence, I find no infirmity in the reasoned order of the court below which does not warrant any interference at the hands of this Court.

8. At this stage, the learned Counsel for the petitioner seeks permission of this Court to withdraw the present revision. But, this Court is not inclined to permit the petitioner to withdraw the revision for the alleged false statement made by the petitioner in the lower court.

9. In the result, the Criminal Revision Case stands dismissed.

-Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

To

1. The Inspector of Police, Thoosi Police Station,
Thiruvannamalai District.
2. The Judicial Magistrate, Cheyyar.
3. -do-Through the chief judicial magistrate,
Thiruvannamalai District.
4. The public prosecutor,
High court, Madras.

Crl.R.C.No.721 of 2015

SKV(co)
cp 07.08.2015



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