

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.06.2017

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THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.No.655 of 2017

Murugan @ Jayamurugan

... Petitioner

Vs

State rep. by
The Sub-Inspector of Police,
Kalambur Police Station,
Tiruvannamalai District
(Crime No.540/2016)

... Respondent

Criminal Revision filed under sections 397 read with 401 of Criminal Procedure Code to call for the records relating to the orders dated 02.01.2017 made in Crl.M.P.No.3595 of 2016 pending investigation in Crime No.540 of 2016 under Sectins 379, 430 IPC r/w. 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and set aside the said order and consequently order to return the vehicle bearing No.TN25-AJ9059 for interim custody to the petitioner/owner of the vehicle.

For Petitioner : Mr.G.Saravanan

For Respondent : Mr.R.Ravichandran
Gov. Advocate (Crl. Side)

ORDER

Challenging the order, dismissing the petitioner's application filed under Sections 451 of Cr.P.C., passed by the Judicial Magistrate, Arni, in CrI.M.P.No.3595 of 2016 dated 02.01.2017 for interim custody of the vehicle, the present revision has been filed.

2. The petitioner claims to be a owner of the Tractor and Trailor, which has been involved in the offences under Sections 379 and 430 IPC in Crime no.219 of 2014 on the file of the respondent police. The above said vehicle has been seized on the ground that the vehicle was involved in illegal transportation of one unit of sand and the vehicle was also seized by the respondent police. Thereafter, the petitioner filed an application before the Court below seeking to return the vehicle. The Court below dismissed the application stating that the vehicle is already involved in another case in Crime No.219 of 2014, which is similar in nature. In which, When the petitioner filed an application for return of the vehicle, the Judicial Magistrate, Arni, passed an order and the vehicle was returned on the ground that the vehicle shall not be used in similar type of offence and since the sand is a valuable natural resource, which has been looted for unlawful gain, the vehicle cannot be released in favour of the petitioner. Now challenging the above order, the present revision has been filed.

3. The learned counsel appearing for the petitioner would submit that the lower court dismissed the application on erroneous ground that the

petitioner in an earlier occasion has already given an undertaking that he will not use the vehicle for similar type of offence and the petitioner did not give any such undertaking and there is no order in the earlier occasion and he has also produced a copy of the order passed by the **Kerala High Court in Crl.M.C.No.2484 of 2015**. Further the learned counsel appearing for the petitioner submits that he is the owner of the vehicle. Now the the vehicle has been used without his knowledge by his driver and he has also given undertaking that the vehicle will not be used in any kind of offence similar in nature.

4. Per contra, the learned Government Advocate (Crl. Side) appearing for the respondent vehemently opposed on the ground that the petitioner is a habitual offender. Already the vehicle has been seized and the same was also released on condition. Now once again the same vehicle has been used in this crime and if the vehicle is returned, there is likelihood of using the vehicle for sand theft and hence he opposed the same.

5. I have considered the rival submissions and perused the materials available on record carefully.

6. It is true that the vehicle has been involved in a similar kind of offence earlier and the vehicle was also seized and the Judicial Magistrate released the vehicle with certain conditions. On perusal of the earlier order shows that the Court below did not impose any condition that the petitioner

should not involve the vehicle for any illegal purposes.

7. However taking into consideration of the fact that he is the owner of the vehicle and the vehicle was also seized on 27.12.2016 and the vehicle was also in custody of the police and exposed of sun and rain and considering the fact that the petitioner has given an undertaking that he will not involve in any kind of offence in future, I am inclined to release the vehicle.

8. In the above circumstances, the impugned order passed by the Court below is set aside and the court below is directed to return the vehicle, viz, Tractor and Trailor bearing Registration No.TN 25-AJ-9059 to the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.20,000/- (Rupees twenty thousand only) before the Judicial Magistrate, Arni, T.V.Malai District;
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,

- v. the petitioner shall take photograph of the vehicle; and
- vi. the petitioner shall not involve the vehicle in similar crime and if the vehicle is involved in any crime, the vehicle would not be released on any account.

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

9. Accordingly, the Criminal Revision is disposed of.

27.06.2017

Index: Yes/No
Internet: Yes/No
Speaking order/ non-speaking order
mrp

To

1. The Judicial Magistrate,
Arni, Thiruvannamalai District.
2. The Sub-Inspector of Police,
Kalambur Police Station,
Thiruvannamalai District
3. The Additional Public Prosecutor,
High Court, Madras.

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V.BHARATHIDASAN, J.,

mrp



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