

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.09.2017

CORAM:

THE HONOURABLE MR. JUSTICE **M.S.RAMESH**

Crl.O.P.Nos.16302 & 16340 of 2016

1. Radha Krishna ...Petitioner in Crl.O.P.16302/16  
2. Rajendran ... Petitioner in Crl.O.P.16340/16

.Vs.

The State Rep. by  
Forest Officer,  
Tamil Nadu Forest Department,  
Ulundurpet Division,  
Ulundurpet,  
Villupuram District.

...Respondent in both O.Ps.

**Prayer in Crl.O.P.No.16302 of 2016 :**

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of the learned Principal Sessions Judge, Villupuram District and set aside the order passed in Crl.R.P.No.12 of 2016 dated 15.06.2016 and order to return of the Vehicle Ashok Leyland Tripper Lorry bearing Regn. no.TN-45-X-5396 concerned in Crime No.31 of 2016 on the file of respondent to the custody of the petitioner herein and pass orders.

**Prayer in Crl.O.P.No.16340 of 2016:**

Criminal Original Petition filed under Section 482 Cr.P.C. praying to call for the records of Learned Principal Sessions Judge Villupuram District and set

aside the order passed in Crl.R.P.No.11 of 2016 dated 15.06.2016 and order to return of the Vehicle Ashok Leyland Tripper Lorry bearing Regn. no.TN-18-F-6999 concerned in Crime No.31 of 2016 on the file of respondent to custody of the petitioner herein and pass orders.

For Petitioners : Mr.T.Dharani

For Respondent : Mr.P.Govindarajan  
Additional Public Prosecutor

**COMMON ORDER**

The present petitions have been filed seeking for return of the vehicles i.e., lorries bearing registration Nos: TN-45-X-5396 and TN-18-F-6999 respectively both involved in Crime No.31 of 2016 on the file of the respondent herein. According, to the petitioners both the lorries came to be seized on 13.03.2016 and has been under the custody of the Lower Court.

2. The learned counsel for the petitioners have submitted that the vehicles were not involved in any illegal activities and as such retaining the vehicle in the custody of the respondent is unwarranted.

3. The learned Additional public prosecutor on the other hand submitted that the petitioners vehicles were earlier involved in similar offence i.e., illegal sand quarry and were detained. After the vehicles were ordered to the released, the petitioners again indulged in the same illegal activities and therefore opposed to return the vehicles.

4. It is needless to point out that though the vehicles were seized on 13.03.2016, till date, the respondent has not concluded the confession proceedings and the vehicles have been lying idle thereby, deteriorating the value of the vehicles. No prejudice would be caused to the respondents by returning the vehicles after obtaining an undertaking from the petitioners that the vehicles will be produced as and when required by the investigating officer. The said undertaking should contain a clause that the vehicles will not be involved in any other illegal activities at a later point of time.

5. This Court on numerous occasions have taken a similar view that pending confiscation proceedings the petitioners must be entitled to have the interim custody of the vehicles with certain conditions to produce the vehicles as and when required.

6. The respondents are directed to return the petitioners vehicles bearing registration nos: TN-45-X-5396 and TN-18-F-6999 on the following conditions:

- (i) The petitioners shall submit necessary records before the learned Judicial Magistrate No.II, Ulundurpet, to establish the ownership of the Vehicle;

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smn/smi

(ii) The petitioners shall furnish a bond for Rs.5,00,000/- with two sureties to the satisfaction of the learned Magistrate;

(iii) The petitioners shall also take photograph of the lorries, in the presence of the Magistrate and the photograph shall be certified by the magistrate with seal; the lorries shall be produced before the trial Court as and when required;

(iv) The petitioners shall file an undertaking affidavit before the learned Magistrate that he will not permit the lorries for any such purpose.

With the above observations the Criminal Original Petition stands allowed.

13.09.2017

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*Index: Yes/No*

To.

1. The Forest Officer,  
Tamil Nadu Forest Department,  
Ulundurpet Division,  
Ulundurpet,  
Villupuram District.
2. The Learned Principal Sessions Judge,  
Villupuram District.

CRL.OP.Nos.16302 &amp; 16340 of 2017