

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:26.02.2018

CORAM:

THE HON'BLE MR.JUSTICE M.V.MuRALIDARAN
Crl.R.C.No.1192 of 2017

Semban

.. Petitioner

Vs.

State represented by its
The Inspector of Police,
Eriyur Police Station.
(Crime No.159 of 2017)

.. Respondent

Criminal Revision filed under Section 397 and 401 Cr.P.C. against the order passed by the learned Additional District Munsif cum Judicial Magistrate Court, Pennagaram, in Crl.M.P.No.1325 of 2017 in Crime No.159 of 2017 dated 17.08.2017 and set aside the same.

For Petitioner : M/s.C.Prabakaran

For Respondent : Mr.G.Ramar
Government Advocate (Crl.side)

O R D E R

The petitioner challenges the order of the learned Additional District Munsif cum Judicial Magistrate Court, Pennagaram, in Crl.M.P.No.1325 of 2017, rejecting the petition filed for return of vehicle.

2. The respondent has seized a Tractor bearing registration No.TN-57J-7205, Balwan Tractor along with trailer belonging to the petitioner in connection with the case registered in Crime No.159 of 2017 on its file for offence under Sections 379 of IPC r/w 21(1) of Mines and Minerals (Developmental and Regulation) Act, 1957. The petitioner has moved Crl.M.P.No.1325 of 2017 before the learned Additional District Munsif cum Judicial Magistrate Court, Pennagaram, seeking return of the vehicle. Such petition came to be dismissed under orders of the Court below dated 17.08.2017 and hence, this revision.

3. Learned counsel for the petitioner would seek to impress upon this Court that a false case stands foisted upon the petitioner. This Court is now concerned with return of property, pure and simple.

4. Mr.G.Ramar, learned Government Advocate (Crl.side) submits that though the petitioner is the owner of the vehicle, but he committed grave offences by using the vehicle in subject. Hence, he strongly opposed for release of vehicle.

5. In the circumstances above stated and considering the fact that the petitioner is the owner of the vehicle as per copy of Registration certificate produced and following the decisions of the Hon'ble Apex Court in Sunderbhai Ambalal Desai v. State of Gujarat (AIR 2003 Supreme Court 638) and General Insurance Council V. State of Andhra Pradesh in 2010 (3) Supreme Pg. 317, this Court directs as follows:

The Tractor bearing registration No.TN-57J-7205, Balwan Tractor , along with trailer shall be placed in the custody of the petitioner after complying with the following:

i) The lower Court shall cause photographs of the vehicle to be taken and record panchanama thereof, the photographs taken shall be read as secondary evidence during trial and production of the vehicle shall be dispensed with;

ii) The vehicle shall then be returned to the petitioner, without imposition of any conditions;

iii) the petitioner shall deposit a sum of Rs.30,000/- before learned Additional District Munsif cum Judicial Magistrate Court, Pennagaram within a period of one week from the date of receipt of a copy of this order.

6. The above order is not determinant of the ownership or other rights in respect of the vehicle.

7. The petitioner is directed not to alter the ownership of the vehicle till the disposal of the Crime No.159 of 2017 on the file of the respondent Police.

8. In the result, the Criminal Revision is allowed. The order of the learned Additional District Munsif cum Judicial Magistrate Court, Pennagaram, passed in Crl.M.P.No.1325 of 2017 dated 17.08.2017 is set aside.

Sd/-

Assistant Registrar (CS-ix)

//True Copy//

Sub Assistant Registrar

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To

1.The Additional District Munsif
cum Judicial Magistrate Court,
Pennagaram.

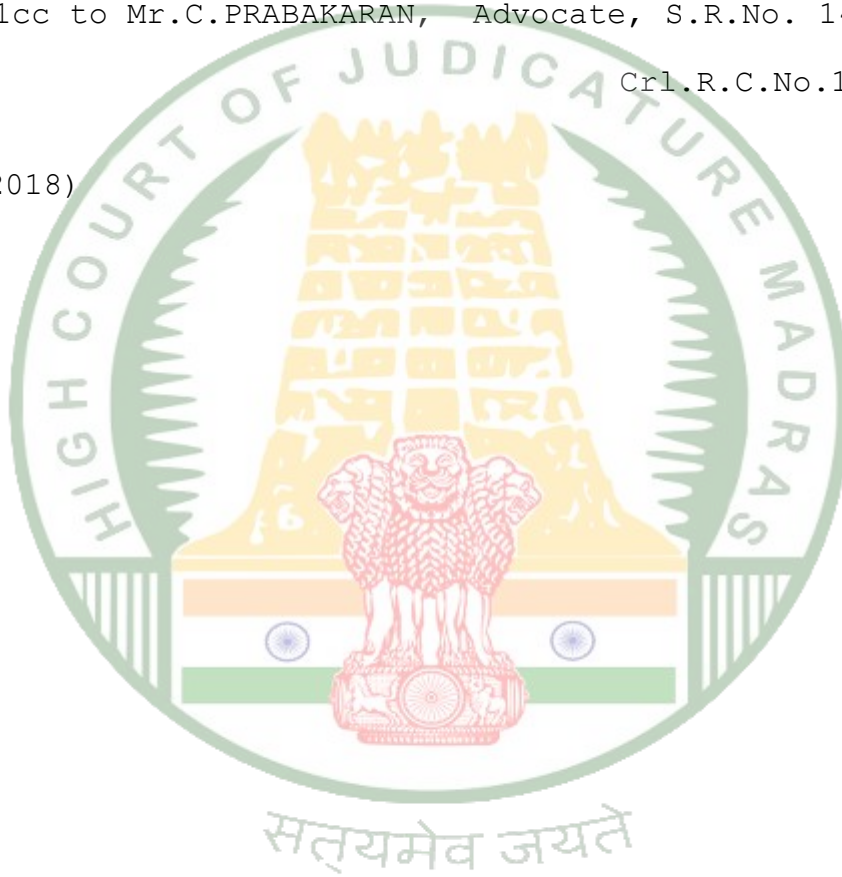
2.The Inspector of Police,
Eriyur Police Station.

3.The Government Advocate,
High Court, Chennai.

+1cc to Mr.C.PRABAKARAN, Advocate, S.R.No. 14769

Cr1.R.C.No.1192 of 2017

TR(28/02/2018)



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