



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 19.02.2018

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE P.N.PRAKASHCr1.R.C.(MD)No.56 of 2018

P.Sudalai : Petitioner / Sole Accused

-Vs.-

The State of Tamil Nadu
Represented by the Inspector of Police,
Nazareth Police Station,
Thoothukudi District. : Respondent / Complainant

Prayer: Criminal Revision Case is filed under Section 397 r/w 401 Cr.P.C., to call for the records relating to the case in Cr.M.P.No.10164 of 2017 on the file of the Judicial Magistrate, Sathankulam dated 21.12.2017 and set aside the same.

For Petitioner : Mr.R.Balakrishnan

For Respondent : Mrs.S.Bharathi,
Government Advocate

O R D E R

A *Suo motu* FIR was registered by the Sub-Inspector of Police, Nazareth Police Station in Crime No.235 of 2017 under Section 379 IPC against the petitioner herein on 23.11.2017. On a reading of FIR, it is seen that the petitioner was transporting four units of river sand illegally in his tipper lorry bearing registration No.TN72-AL-0487 and on seeing police, he abandoned the lorry and ran away. The police seized the lorry with the sand and reported vide P.R.No.284 of 2017 to the learned Judicial Magistrate, Sathankulam. The petitioner obtained anticipatory bail from this Court and also furnished sureties. Thereafter, the petitioner filed Cr.M.P.10164 of 2017 under Section 451 Cr.P.C. for interim custody of the dipper lorry and the same has been dismissed by the learned Judicial Magistrate, Sathankulam on 21.12.2017, aggrieved by which, the petitioner is before this Court.

2. Heard Mr.R.Balakrishnan, learned counsel appearing for the petitioner and Mrs.S.Bharathi, learned Government Advocate appearing for the respondent.

3. The learned counsel appearing for the petitioner submitted that the trial Court had dismissed the petition for return of the lorry on the ground that the petitioner will involve in similar offence, if the lorry is returned.



4. Today, Mr.G.Alwar, Special Sub-Inspector of police, Nazareth Police Station, Nazareth, is present in this Court.

5. On instructions, the learned Government Advocate appearing for the respondent submitted that lorry with the sand is now in the police station and that the police have taken steps to value the sand and hand it over to the Public Works Department Officials and that the process is not yet completed. The learned Government Advocate also submitted that there is no previous case against the petitioner.

6. The fact remains that the lorry was seized on 23.11.2017 and till date, the lorry is in the custody of the police, open to sunshine and rain.

7. This Court is of the view that the interest of justice will be served, if the lorry is handed over to the petitioner. In the result, this Criminal Revision Case is allowed and the order passed by the trial Court is set aside and on further condition that:

(i) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) to the credit of Crime No.235 of 2017 before the learned Judicial Magistrate, Sattankulam. The trial Court shall deposit the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) in any one of the Nationalised Banks and the same can be disbursed either to the state or to the petitioner depending upon the outcome of the prosecution in Crime No.235 of 2017.

(ii) the petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the learned Judicial Magistrate, Sattankulam.

(iii) the petitioner sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Trial Judge may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity.

(iv) The police shall take photographs of the tipper lorry in the presence of the Magistrate and submit the photographs in C.D. form and hard copy along with a certification under Section 65(B) of the Evidence Act.

(v) the petitioner shall file an affidavit that he will produce the tipper lorry as and when required by the trial Court.

Sd/-

Assistant Registrar(RTI)

Sub-Assistant Registrar



To

1.The Judicial Magistrate,
Sathankulam.

2.The Inspector of Police,
Nazareth Police Station,
Thoothukudi District.

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

+One cc to Mr.R.Balakrishnan, Advocate, SR.No.50114

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RL/5C/3P/KK/SAR3/27/2/2018

Order made in
Cr1.R.C.(MD)No.56 of 2018

19.02.2018