

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.12.2019

CORAM

THE HON'BLE MR.JUSTICE R.MAHADEVAN

CRL.R.C.NO.1332 OF 2019

S.Arumugam

...Petitioner/Accused

Vs.

The State Represented by its
Inspector of Police,
Mappedu Police Station,
Thiruvallur District
Crime No.176 of 2019

...Respondent/complainant

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 21.11.2019 passed by the learned Principal District and Sessions Judge, Thiruvallur, in Crl.M.P.(Nil) of 2019 in Crime No.176 of 2019 on the file of the respondent/Police to return the petitioner's vehicle TATA Motors Lorry bearing Reg.No.TN20-AP-5656 is in the custody of the respondent police.

For Petitioner : Mr.M.Rajinikanth

For Respondent : Mr.K.Prabakar,
Addl.Public Prosecutor.

O R D E R

This Criminal Revision Case has been filed by the petitioner seeking to set aside the order, dated 21.11.2019 passed by the learned Principal District and Sessions Judge, Thiruvallur, in Crl.M.P.(Nil) of 2019 in Crime No.176 of 2019.

2. During regular rounds, the respondent police intercepted a TATA Motors Lorry bearing registration No.TN20-AP-5656 (belonging to the petitioner) transporting sand from the river bed, arrested the driver of the lorry (A-2), seized the vehicle and registered a case in Crime No.176 of 2019 under Sections 379 and 430 IPC and Section 21 of the Mines and Minerals Act. Seeking return of the vehicle, the petitioner, being the owner, has filed Crl.M.P.No.(Nil) of 2019 under Sections 451 and 457

Cr.P.C. before the learned Principal Sessions and District Judge, Thiruvallur and the said petition was dismissed by the order dated 21.11.2019, challenging which, the present Revision Case has been filed.

3. The learned Additional Public Prosecutor, on instructions, submitted that the petitioner is involved in eight previous cases and hence the Trial Court has rightly taken note of the same and dismissed the petition. He also submitted that the petitioner is a habitual offender and hence prays to dismiss the Case.

4. On the other hand, the learned counsel for the petitioner submitted that the Court below erred in appreciating the oral and documentary evidence in proper perspective; though the respondent contended before the Trial Court that the petitioner involved in eight previous cases, they all relate to cases of non-bailable and not of this nature of case.

5. Though the reasons given by the trial Court in dismissing the petition cannot be faulted, yet, this Court is of the view that if the vehicle remains in the custody of the police indefinitely, it will get deteriorated.

6. Apart from that, in view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat* [(2002) 10 SCC 290], this Court is of the view that interests of justice will be served, if the vehicle is ordered to be released to the petitioner on certain stringent conditions. The respondent / police is directed to grant interim custody of the TATA Motors Lorry bearing registration No.TN20-AP-5656 to the petitioner within a period of seven (7) days from the date of compliance of the below mentioned conditions:-

- i. the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees one lakh only) before the jurisdictional Tahsildar as non-refundable deposit. After receipt of the above said amount, the same will have to be deposited by the Tahsildar, to the credit of the District Mines and Minerals Foundation Trust, as non-refundable deposit;
- ii. the petitioner shall execute a personal bond for a sum of Rs.10,000/- with two sureties each for a like sum to the satisfaction of the learned Principal Sessions and District Judge, Thiruvallur. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Cards;

iii.the petitioner shall give an undertaking before the respondent / authority concerned stating that he will not use the vehicle in question for any illegal activities in future and shall produce the same as and when required by the respondent and also the trial Court, failing which the respondent / trial Court is at liberty to confiscate the vehicle;

iv.the petitioner shall not alienate the vehicle in question till the disposal of the proceedings before the authority concerned;

v.the petitioner shall take photograph(s) of the vehicle and submit the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872;

vi.the petitioner shall surrender the original R.C. book before the learned Principal Sessions and District Judge, Thiruvallur; and

vii.the petitioner is also directed to participate in the enquiry to be conducted by the respondent.

viii. It is also made clear that after release of the vehicle on complying with the conditions imposed by this court, if the said vehicle is found to be involved in any of the offence, it is always open to the respondent to proceed further for confiscation.

ix.Petition relating to return of R.C. Book for any purpose in the future, may be filed before the learned Principal Session and District Judge, Thiruvallur, who may consider the same on merits.

7. This Criminal Revision Case is allowed, in the above terms.

Sd/-

Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

srk

To

1. The Principal District and Sessions Judge, Thiruvallur
2. The Inspector of Police,
Mappedu Police Station, Thiruvallur District
3. The Public Prosecutor, High Court, Madras.

+1cc to Mr.M.Rajinikanth, Advocate, S.R.No.105985

Cr1.R.C.No.1332 of 2019

VD(CO)
CS/31/12/2019



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