



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 09.09.2019

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

Crl.R.C. (MD)No.652 of 2019

Pandian

... Petitioner/Petitioner

Vs.

State Represented by
The Sub Inspector of Police,
Sholavandhan Police Station,
Madurai District.
(In Crime No.92/2019)

... Respondent/Respondent

Prayer: Criminal Revision Case is filed under Section 397 r/w. 401 of Cr.P.C, to call for the records pertaining to the order passed in Cr.M.P.No.2862 of 2019, dated 15.06.2019, on the file of the learned Judicial Magistrate, Vadipatti and set aside it and consequently pass order returning the TATA HITACHI vehicle bearing model EX 200 LC SUPER Bukhoe with GP Bucket and Kit.

For Petitioner : Mr.K.K.Samy

For Respondent : Mr.A.Robinson
Government Advocate (Crl. Side)

O R D E R

The revision petitioner's vehicle was seized in connection with illegal transportation of river sand in Crime No.92 of 2019 on the file of Sholavandhan Police Station.

2.The petitioner applied for return of the said vehicle. The Court below dismissed the petitioner's application on the ground that if the TATA Hitachi is returned, he would use the vehicle for indulging in similar activities.

3.If the vehicle is kept in Court custody, it would only lose its value.

4.The Hon'ble Supreme Court, in the decision reported in 2003 (1) CTC 175 (Sunderbhai Amabalal Desai Vs. State of Gujarat) held as follows:-

"11.With regard to valuable articles, such as, golden or silver ornaments or articles studded with precious stones, it



is submitted that it is of no use of keep such articles in police custody for years till the trial is over. In our view, this submission requires to be accepted. In such cases, Magistrate should pass appropriate orders as contemplated under Section 451 Cr.P.C., at the earliest.

12. For this purpose, if material on record indicates that such articles belong to the complainant at whose house theft, robbery or dacoity has taken place, then seized articles be handed over to the complainant after:-

(1) preparing detailed proper panchnama of such articles;

(2) taking photographs of such articles and a bond that such articles could be produced if required at the time of trial; and

(3) after taking proper security.

13. For this purpose, the Court may follow the procedure of recording such evidence, as it thinks necessary, as provided under Section 451 Cr.P.C., The bond and security should be taken so as to prevent the evidence being lost, altered, destroyed. The Court should see that photographs of such articles are arrested or countersigned by the complainant, accused as well as by the person to whom the custody is handed over. Still however, it would be the function of the Court under Section 451 Cr.P.C., to impose any other appropriate condition.

14. In case, where such articles are not handed over either to the complainant or to the person from whom such articles are seized or to its claimant, then the Court may direct that such articles be kept in bank lockers. Similarly, if articles are required to kept in police custody, it would be open to the SHO after preparing panchnama to keep such articles in a bank within a weeks of their seizure. If required, the Court may direct that such articles be handed over back to the Investigating Officer for further investigation and identification. However, in no set of circumstances, the Investigating Officer should keep such articles in custody for a longer period for the purpose of investigation and identification. For currency notes, similar procedure can be followed."

5. Keeping the vehicle in the station premises or in the Court premises is not going to advance the cause of justice or investigation. Therefore, the order impugned in this revision case is set aside. This revision petition stands allowed. The respondent is directed to return the vehicle to the petitioner subject to the following conditions:-

"1. Vehicle in question (i.e.,) TATA Hitachi bearing model EX 200 LC SUPER Bukhoe with GP Bucket and Kit shall be released to the petitioner on condition that the petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the credit of 2019 on the file of the respondent police and



on marking the said payment, the concerned Magistrate shall release the vehicle to the petitioner.

6.The petitioner shall not either transfer/sell or pledge the vehicle under any circumstances, until the trial is completed or further orders are passed by the trial Court.

7.The vehicle shall be photographed and photos and negative of the same shall be kept in safe custody by the respondent police for future usage, if need be.

8.Further, the petitioner is directed to produce the vehicle as and when required by the respondent police atleast once in two months till the completion of the trial".s

Sd/-

Assistant Registrar (P&A)

// True Copy //

Sub Assistant Registrar(CS)

To:

1.The Judicial Magistrate,
Vadipatti.

2.The Sub Inspector of Police,
Sholavandhan Police Station,
Madurai District.

+1 CC to M/s.K.K.SAMY, Advocate (SR-85922[F] dated 09/09/2019)

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