

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.02.2020

CORAM

THE HON'BLE Mr. JUSTICE R. MAHADEVAN

Crl.R.C.No.156 of 2020

N.Kumar

... Petitioner

Vs.

The State, Rep. By the Inspector of Police,
Thiruvankadu Police Station,
Nagapattinam District,
Crime No.105/2019

... Respondent

Criminal Revision filed under Section 397 read with Section 401 Cr.P.C. seeking to set aside the order dated 11.11.2019 passed by the learned District and Sessions Judge, Nagapattinam, in Crl.M.P.No.3173 of 2019 in Crime No.105 of 2019 and to return the 'Tipper Lorry', bearing Registration No.TN32-AC-4828 to the custody of the petitioner.

For Petitioner : Mr. M.R.Kuyilan

For Respondent : Mr. K.Prabakar,

Additional Public Prosecutor.

O R D E R

This criminal revision has been filed seeking to set aside the order dated 11.11.2019 passed by the learned District and Sessions Judge, Nagapattinam, in Crl.M.P.No.3173 of 2019.

2. The Village Administrative Officer, Thiruvankadu, as a routine practice, inspected the Tipper Lorry bearing registration No. TN32-AC-4828 (belonging to the petitioner) containing some units of sand, arrested the driver of the lorry, seized the vehicle and registered a case in Crime No.105 of 2019 under Sections 379 IPC read with Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. Seeking return of the vehicle, the petitioner, being the owner filed Crl.M.P.No.3173 of 2019 under Section 451 Cr.P.C. before the learned District and Sessions Judge, Nagapattinam, and the said petition was dismissed by order dated 11.11.2019, challenging which, the present petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Additional Public Prosecutor appearing for the respondent / State.

4. The learned Additional Public Prosecutor submitted that there is no previous case against the petitioner nor this vehicle involved in any other case earlier.

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. In view of the guidelines given by the Supreme Court in the case of *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 said vehicle bearing registration No.TN32-AC-4828 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 District and Sessions Judge, Nagapattinam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;
- 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 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 photographs 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 District and Sessions Judge, Nagapattinam.
- 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 District and Sessions Judge, Nagapattinam, who may consider the same on merits.
7. This petition is allowed in the above terms.

s/d-
Assistant Registrar(CO)

True Copy

Sub-Assistant Registrar

srk
To

1. The District and Sessions Judge, Nagapattinam,
 2. The Inspector of Police, Thiruvankadu Police Station,
Nagapattinam District.
 - 3.The Public Prosecutor, High Court, Madras.
- +1 CC to Mr.M.R. Kuyilan, Advocate sr 13441.

Cr1.R.C.No.156 of 2020

CNR (CO)
SP(18/02/2020)