

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 26.08.2020

CORAM

THE HON'BLE Mr. JUSTICE P.N. PRAKASH

Crl.R.C.No.203 of 2020

S.Prabakaran

... Petitioner/
owner of the vehicle

Vs.

State represented by
The Inspector of Police,
Nagore Police Station,
Nagapattinam District.
(Crime No.359 of 2019)

... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the order dated 09.12.2019 passed in Crl.M.P.No.3749 of 2019 on the file of the District and Sessions Court, Nagapattinam and further direct the respondent to return the petitioner's Ashok Leyland lorry bearing Registration No.TN-28-F-7623 seized in Crime No.359 of 2019 on the file of the respondent/police.

For Petitioner : Mr.P.Muthamizh Selvakumar

For Respondent : Mr.K.Madhan
Government Advocate
(Crl. Side)

O R D E R

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set aside the order dated 09.12.2019 passed in Crl.M.P.No.3749 of 2019 on the file of the District and Sessions Court, Nagapattinam and further direct the respondent to return the petitioner's Ashok Leyland lorry bearing Registration No.TN-28-F-7623 seized in Crime No.359 of 2019 on the file of the respondent/police.

3. The petitioner is the owner of the vehicle (Ashok Leyland Lorry) bearing Registration No.TN-28-F-7623 and let the same on hire. The petitioner's vehicle was seized on 09.10.2019, while transporting four units of river sand and a case was registered in Crime No.359 of 2019 for the offences under Sections 379 and 430 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. The petitioner filed Crl.M.P.No.3749 of 2019 before the District and Sessions Court, Nagapattinam, under Section 451 Cr.P.C. for interim custody of the vehicle, which was dismissed on 09.12.2019, challenging which, the petitioner has preferred the present revision petition.

4. Heard Mr.P.Muthamizh Selvakumar, learned counsel for the petitioner and Mr.K.Madhan, learned Government Advocate (Crl. Side) appearing for the respondent/State.

5. The learned counsel for the petitioner submitted that the owner of the vehicle was the petitioner's father Sundaramoorthy, in whose name the RC book of the vehicle stands. He also submitted that Sundaramoorthy died on 11.10.2019 and therefore, as his legal heir, the petitioner has filed the present revision petition.

6. It is seen that the seizure was effected on 09.10.2019 and the vehicle is in the police station open to sun and rain.

7. Taking into consideration the aforesaid facts and in view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat*¹, 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 (Ashok Leyland Lorry) bearing Registration No.TN-28-F-7623 to the petitioner within a period of 7 days from the date of compliance of the below mentioned condition Nos.(i) to (iii) :

- (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, Nagapattinam as non-refundable deposit;

- (ii) The petitioner shall execute a personal bond for a sum of Rs.50,000/- (Rupees Fifty Thousand Only) with two sureties each, for a like sum to the satisfaction of the District and Sessions Court, 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 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 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 District and Sessions Court, Nagapattinam; and
- (vii) The petitioner is also directed to participate in the enquiry to be conducted by the respondent.

Petition relating to return of R.C. Book for any purpose in the future, may be filed before the District and Sessions Court, Nagapattinam, who may consider the same on merits, though this order has been passed by the High Court.

This petition is allowed in the above terms and the order dated 09.12.2019 passed in CrI.M.P.No.3749 of 2019 on the file of the District and Sessions Court, Nagapattinam, is set aside.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

nsd

To

1.The District and Sessions Judge,
Nagapattinam.

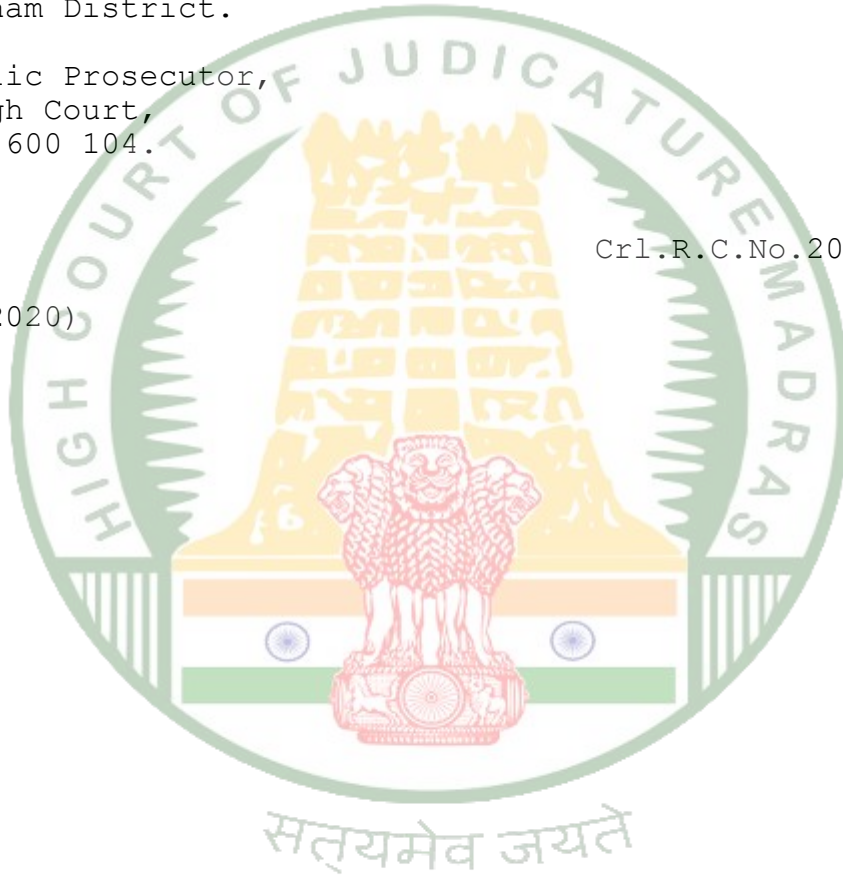
2.The Tahsildar,
Nagapattinam.

3.The Inspector of Police,
Nagore Police Station,
Nagapattinam District.

4.The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

GP (CO)
CB (09/10/2020)

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