

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.03.2020

CORAM

THE HON'BLE MR. JUSTICE P. RAJAMANICKAM

Crl. R.C. No. 342 of 2020

Palaniappan

... Petitioner

-vs-

1. The Special Revenue Inspector,
Assistant Director Office,
Geology and Mines Department,
Namakkal.

2. The Tahsildar,
Rasipuram Taluk,
Namakkal District.

... Respondents

Prayer:- Criminal Revision Petition filed under Section 397 read with Section 401 of Code of Criminal Procedure, 1973, calling for the records relevant to the order in Crl. M.P. No. 47/2020 dated 06.02.2020 passed by the Learned Principal Sessions Judge, Namakkal and set-aside the same (conditions) and thereby allow the Criminal Revision Petition.

For Petitioner : Mr. B. Gopalakrishnan

For Respondents: Mr. C. Iyyapparaj,
Additional Public Prosecutor
assisted by
Mr. T. Shenbagarajeswaran,
Government Advocate (Criminal Side)

O R D E R

The Criminal Revision Petition has been filed seeking to call for the records relevant to the order in Crl. M.P. No. 47/2020 dated 06.02.2020 passed by the Learned Principal Sessions Judge, Namakkal and set-aside the same.

2. During regular rounds, the squad police of Geology and Mines Department seized the vehicle, viz., Tractor bearing registration No. TN 28 BX 7930, belonging to the Petitioner and entrusted the same to the Second Respondent. Seeking return of the vehicle, the Petitioner, being the owner filed Crl. M.P. No.

47 of 2020 under Section 451 of the Code of Criminal Procedure, 1973, before the Court of the Principal Sessions Judge, Namakkal and the said Petition was allowed with conditions by order dated 06.02.2020, challenging which, the present Criminal Revision Petition has been filed.

3. Heard the learned Counsel for the Petitioner and the learned Additional Public Prosecutor appearing for the Respondent State.

4. Learned Additional Public Prosecutor submitted that there is no previous case against the Petitioner nor this vehicle involved in any other case earlier. Though the reasons given by the Trial Court in allowing the Petition cannot be faulted, yet, this Court is of the view that if the vehicle remains in the custody of the Second Respondent indefinitely, it will get deteriorated.

5. In view of the guidelines given by the Hon'ble 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 Second Respondent is directed to grant interim custody of the said vehicle bearing registration No. TN 28 BX 7930 to the Petitioner within a period of 7 days from the date of compliance of the below mentioned conditions:-

- i. the Petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand 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/- (Rupees Ten Thousand only) with two sureties each for a like sum to the satisfaction of the Principal Session Judge, Namakkal. The Petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;
- iii. the Petitioner shall given 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 Respondents 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 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 Principal Sessions Judge, Namakkal;
- vii. the Petitioner is also directed to participate in the enquiry to be conducted by the Respondents;
- 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 Respondents to proceed further for confiscation; and
- ix. petition relating to return of R.C. Book for any purpose in the future, may be filed before the Principal Sessions Judge, Namakkal, who may consider the same on merits.

6. By setting aside the order impugned herein, this Criminal Revision Petition is allowed on the above terms.

Sd/-

Assistant Registrar (CS-III)

//True copy//

Sub Assistant Registrar

vjt

To

1. The Principal Sessions Judge, Namakkal.
2. The Special Revenue Inspector,
Assistant Director Office,
Geology and Mines Department,
Namakkal.
3. The Tahsildar,
Rasipuram Taluk,
Namakkal District.
4. The Public Prosecutor,
Madras High Court, Chennai.

+1cc to Mr.B. Gopalakrishnan, Advocate SR.No.20904

Cr1. R.C. No. 342 of 2020

AD(CO)
GMY(16/03/2020)