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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2020

CORAM:

THE HONOURABLE MR.JUSTICE N.ANAND VENKATESH

CRL.R.C.No.517 of 2020

Venkatesh

... Petitioner/A-3

Vs.

State represented by,

The Inspector of Police,

Nagore Police Station,

Nagapatinam District.

(Crime No.55 of 2020)

... Respondent/Complainant

PRAYER: Criminal Original Petitioner has been filed under Section 397 r/w 401 Cr.P.C to call for the records and set aside the order passed in Crl.M.P.No.715 of 2020 on the file of the District and Sessions Judge, Nagapattinam in Crime No.55 of 2019, on the file of the respondent dated 27.02.2020 and direct the respondent to release the Ashok Leyland Terrace Lorry bearing registration No.TN-45-L-1944 and allow this Criminal revision petition.

For Petitioner : Mr.J.Jawahar

For Respondent : Mr.M.Mohamed Riyaz

Additional Public Prosecutor

O R D E R

This Criminal Revision Petition has been filed against the dismissal of the petition filed by the petitioner seeking for the return of the lorry.

2. The case of the prosecution is that the petitioner is the owner of the lorry and this lorry was involved in illegally transporting four units of sand. The further case of the prosecution is that petitioner is involved in one more offence in Crime No.54 of 2020.



3. The learned counsel for the petitioner submitted that the confiscation proceedings has not commenced and now the lorry is exposed to rain and shine and if the lorry is kept in the police station continuously, it will lose all its worth. The learned counsel further submitted that any stringent conditions can be imposed by this Court and the petitioner will comply with the said conditions.

3 Per contra, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent submitted that if the lorry is released, the petitioner will once again involve in the illegal transportation of sand. The learned counsel further submitted that on the same day, the petitioner was involved in two offences of similar nature and Crime No. 54 & 55 of 2020 was registered by the respondent police. The learned counsel concluded his arguments by submitting that even though confiscation proceedings have not commenced, this Court has to take a very stringent stand, when it comes to release of the vehicle involved in sand theft, which has a direct impact on the natural resources.

4 This Court has carefully considered the submissions made on either side and the orders passed by the Court below.

5 The petitioner is the owner of the lorry and according to the petitioner, the lorry now exposed to open sky in the police station and it will become worthless over a period of time. Admittedly, the confiscation proceedings have not commenced. The petitioner also undertakes that he will not involve in any illegal activity in future and that any stringent conditions can be imposed by this Court.

6 Taking into consideration the facts and circumstances of the case, the order passed by the Court below in CrI.M.P.No.715 of 2020, dated 27.02.2020 is hereby set aside and this Criminal Revision Petition is allowed with the following conditions:

(i) The petitioner shall file an affidavit before the Court below that the lorry will not be used for the illegal transportation of sand in future.

(ii) The petitioner shall deposit the original RC book



before the Court below and the Court below shall certify the deposit of the original RC book in the Court and such certificate can be produced by the petitioner if and when he is asked to produce the RC book by the police during any interception.

(iii) The petitioner shall deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the District Minerals Foundation Trust and shall produce the said receipt before the Court below.

(iv) The petitioner shall produce the vehicle, as and when required before the Court below.

This order is passed without prejudice to the rights of the respondent to initiate confiscation proceedings against the petitioner.

Sd/-
Assistant Registrar

//True Copy//

Sub Assistant Registrar

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To

- 1.The Inspector of Police,
Nagore Police Station,
Nagapattinam District.
- 2.The Public Prosecutor,
High Court, Madras.
- 3.The District & Sessions Judge,
Nagapattinam.
- 4.The Office of Incharge,
District Minerals Foundation Trust,
Nagapattinam District.

CRL.R.C.No.517 of 2020

SVI (CO)
GS (07/07/2020)