

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.07.2020

CORAM

THE HONOURABLE MR. JUSTICE G.K.ILANTHIRAIYAN

Crl.R.C.No. 556 of 2020

Vijay
S/o. Subramanaian
No.2/80, Mela Street,
Tharangambadi Taluk,
Nagapattinam District.

... Petitioner

Vs.

State represented by,
The Inspector of Police,
Poraiyur Police Station,
Nagapattinam District.
(Crime No.43 of 2020)

... Respondent

PRAYER: Criminal Revision Petition 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.1350 of 2020 on the file of the District and Sessions Judge, Nagapattinam District dated 16.06.2020 to return the tractor along with tipper registration No.TN82 H 5378.

For Petitioner : Mr.S.Sarath Chandran for
K.M.Vijayan Associates

For Respondent : Mr.M.Mohamed Riyaz
Additional Public Prosecutor

O R D E R

This Criminal Revision Petition has been filed against the dismissal order dated 16.06.2020 passed by the learned District and Sessions Judge, Nagapattinam, in Crl.M.P.No.1350 of 2020, filed by the petitioner seeking for return of his tractor along with tipper.

2. The case of the prosecution is that the petitioner is the owner of the tractor along with tipper and the said tractor was involved in illegal transport of one unit of sand.

3. The learned counsel for the petitioner submitted that

the confiscation proceedings has not commenced and now the tractor along with tipper is exposed to rain and shine and if the tractor along with tipper 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.

4. Per contra, Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor appearing on behalf of the respondent submitted that if the tractor is released, the petitioner will once again involve in the illegal transportation of sand. He concluded his arguments by submitting that even though confiscation proceedings have not been 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 in the natural resources.

5. Heard Mr.S.Sarath Chandran, learned counsel appearing for the petitioner and Mr.M.Mohamed Riyaz, learned Additional Public Prosecutor. This Court has carefully considered the submissions made on either side and the orders passed by the Court below.

6. The petitioner is the owner of the tractor and according to the petitioner, the tractor along with tipper now exposed to the 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.

7. Taking into consideration the facts and circumstances of the case, the order passed by the Court below in CrI.M.P.No.1350 of 2020, dated 16.06.2020 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 tractor along with tipper 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.25,000/- (Rupees Twenty Five 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 District and Sessions Court,
Nagapattinam.

2. The Inspector of Police,
Poraiyur Police Station,
Nagapattinam District.

3. The Public Prosecutor,
High Court, Madras.

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Cr1.R.C.No. 556 of 2020

MR (CO)

GS (16/09/2020)