

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.09.2020

CORAM

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

Crl.R.C.No.686 of 2020

Kalaivani

...Petitioner

.Vs.

The Inspector of Police,
Kuthalam Police Station,
Nagapattinam District.
Crime No.33 of 2020

.... Respondent

Criminal Revision filed under Section 397 r/w 401 of Cr.P.C. seeking to call for the records and set aside the order passed in Crl.M.P.No.1869 of 2020 on the file of District and Sessions Judge, Nagapattinam District dated 22.07.2020 to return the Lorry bearing Registration No.TN-47-R-7858.

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

For Respondent : Mrs.P.Kritika Kamal
Government Advocate
(Crl. Side)

ORDER

This case is taken up through video conferencing.

2. This criminal revision has been filed seeking to set aside the order dated 22.07.2020 passed in Crl.M.P.No.1869 of 2020 on the file of the District and Sessions Court, Nagapattinam District, and to return Lorry bearing Registration No.TN-47-R-7858.

3. The petitioner is the owner of the vehicle (Lorry) bearing Registration No.TN-47-R-7858, which was seized on 28.01.2020, while transporting two and a half (2 ½) unit of river sand and a case was registered in Crime No.33 of 2020 for the offence under Section 379 & 430 of IPC and 21(1) of the Mines & Minerals (Development & Regulation) Act, 1957. The

petitioner filed CrI.M.P.No.1869 of 2020 before the District and Sessions Judge, Nagapattinam District, under Section 451 Cr.P.C. for interim custody of the vehicle, which was dismissed on 22.07.2020, challenging which, the petitioner has preferred the present revision petition.

4. Heard Mr.Sarath Chandran for M/s. K.M.Vijayan Associates, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (CrI. Side) appearing for the respondent/State.

5. It is seen that the seizure was effected on 28.01.2020 and the vehicle is in the police station open to sun and rain.

6. 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* reported in (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 (Lorry) bearing Registration No. TN-47-R-7858 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/- 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/- 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 she 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.

7. This petition is allowed in the above terms and the order dated 22.07.2020 passed in Crl.M.P.No.1869 of 2020 on the file of the District and Sessions Court, Nagapattinam, is set aside.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

To

1. The District and Sessions Judge,
Nagapattinam District.
2. The Tahsildar,
Nagapattinam.
3. The Inspector of Police,
Kuthalam Police Station,
Nagapattinam District.
4. The Public Prosecutor,
Madras High Court,
Chennai - 600 104.

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