

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.727 of 2020

Rajeswari Eraniyan

... Petitioner/
owner of the vehicle

Vs.

State represented by
The Inspector of Police,
S-6, Shankar Nagar Police Station,
Chennai.
(Crime No.837 of 2020)

... Respondent/Complainant

Criminal Revision filed under Section 397 r/w 401 Cr.P.C. seeking to set aside the order dated 18.08.2020 passed in C.M.P.No.309 of 2020 on the file of the Judicial Magistrate Court No.II, Tambaram and to return the custody of vehicle bearing Registration No.TN-01-W-1127 to the petitioner.

For Petitioner : Mr.P.K.Ganesh

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 18.08.2020 passed in C.M.P.No.309 of 2020 on the file of the Judicial Magistrate Court No.II, Tambaram and to return the custody of Vehicle (Sewage Tanker Lorry) bearing Registration No.TN-01-W-1127 to the petitioner.

3. The petitioner is the owner of the vehicle (Sewage Tanker Lorry) bearing Registration No.TN-01-W-1127, which is used for transporting sewage water. The police intercepted the vehicle on 06.08.2020, while it was being driven by Vasantha Kumar, the driver of the vehicle, on the ground that the sewage water collected from various places was drained in public places.

4. On these allegations, a case in Crime No.837 of 2020 was registered on 06.08.2020 for the offences under Sections 277 and 278 IPC, against Vasantha Kumar and the vehicle was seized.

5. The petitioner filed C.M.P.No.309 of 2020 before the Judicial Magistrate Court No.II, Tambaram, under Section 451 Cr.P.C., which was dismissed on 18.08.2020, aggrieved by which, the petitioner has filed the present criminal revision petition.

6. Heard Mr.P.K.Ganesh, learned counsel for the petitioner and Mrs.P.Kritika Kamal, learned Government Advocate (Crl. Side) appearing for the respondent/State.

7. On instructions, Mrs.P.Kritika Kamal, learned Government Advocate (Crl.Side) submitted that about twenty FIR were registered from 01.12.2017 to 27.12.2019 under Sections 277 and 278 IPC, pursuant to the Public Interest Litigation, filed by one Muthukumar in W.P.No.33806 of 2019, alleging that the police are turning a blind eye to the activities of sewage transporters in draining the sewage in street margins instead of draining them in the Sewage Treatment Plant (STP), Perungudi.

8. The learned counsel for the petitioner submitted that the petitioner's vehicle was not involved in any earlier case.

9. The fact remains that the seizure was effected on 06.08.2020 and the said vehicle is now kept in the police station open to sun and rain.

10. 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. Accordingly, the respondent police is directed to grant permanent custody of the said vehicle (Sewage Tanker Lorry) bearing Registration No.TN-01-W-1127 to the petitioner on the following conditions:

- (i) The petitioner shall deposit a sum of Rs.20,000/- to the Cancer Institute (WIA), (Regional Cancer Centre), Adyar, Chennai – 600 020 Andhra Bank, Madhya Kailash Branch (SB A/C.No.149710011005477);
- (ii) The petitioner shall execute a bond for a sum of Rs.10,000/- with two sureties undertaking that she will not use the vehicle in question for any illegal activities in future. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

- (iii) The respondent/police shall take photographs of the vehicle, attest the same and submit it before the Judicial Magistrate Court No.II, Tambaram, within one week from the date receipt of copy of this order ;
- (iv) The photographs of the vehicle shall be marked as evidence in the trial in lieu of the vehicle;
- (v) The petitioner shall submit a photocopy of the R.C. book to the respondent/police and to the Court of Judicial Magistrate No.II, Tambaram;
- (vi) The petitioner shall file an affidavit undertaking that she will give evidence in this case, if she is not made as an accused to the effect that the police had seized her vehicle and she had taken custody of the same, pursuant to the order of this Court;

This petition is allowed in the above terms and the order dated 18.08.2020 passed in C.M.P.No.309 of 2020 on the file of the Judicial Magistrate Court No.II, Tambaram, is set aside.

16.09.2020

nsd

Note: Issue copy of this order today.

To

1.The Judicial Magistrate No.II,
Tambaram.

2.The Inspector of Police,
S-6, Shankar Nagar Police Station,
Chennai.

3.Dr.V.Shanta,
The Chairman of Cancer Institute (WIA),
(Regional Cancer Centre),
Adyar, Chennai – 600 020.

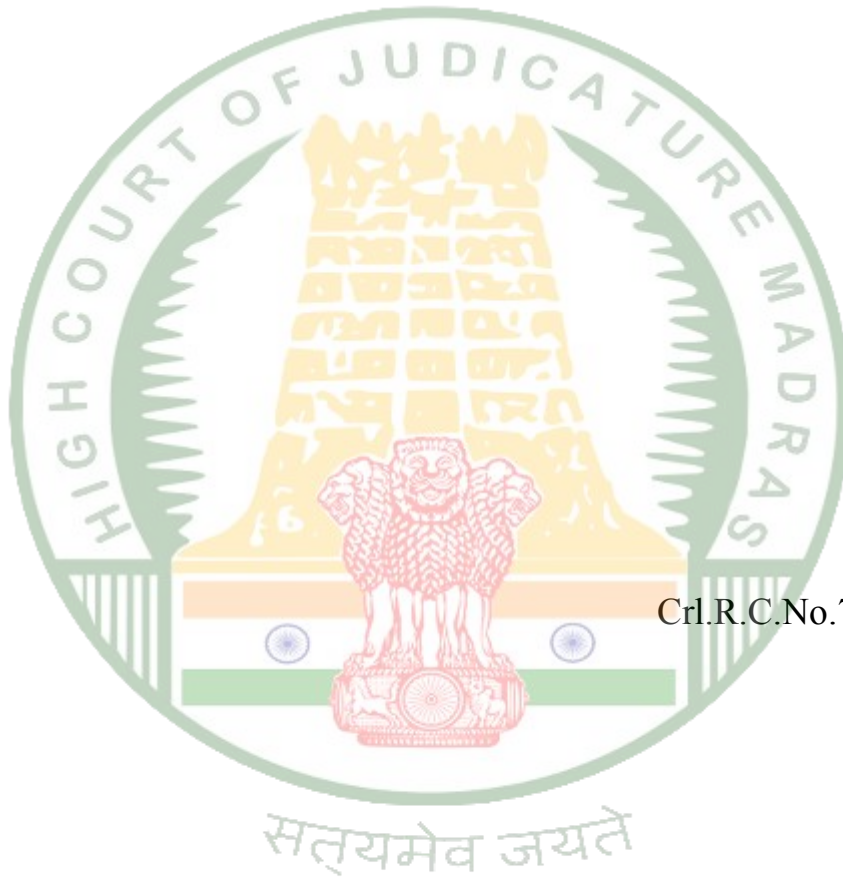
4.The Public Prosecutor,
Madras High Court,
Chennai – 600 104.



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P.N.PRAKASH, J.

nsd



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