

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2020

CORAM:

THE HONOURABLE MR.JUSTICE **M.NIRMAL KUMAR**

CRL.RC.No.1021 of 2020

M.Kumar
S/o.M.Mani

.. Petitioner

/versus/

The Inspector of Police,
M-1, Madhavaram Police Station,
Chennai-600 066.

.. Respondent

Prayer: Criminal Revision Case filed under Sections 397 and 401 of the Code of Criminal Procedure, to direct the respondent to release the vehicle Ashok Leyland White Tanker Lorry, Heavy Vehicle bearing Registration No.TN 05 BE 7925, Chassis No.MB1A3CFDXFRSN0897 and Engine No.FSHZ429795 belongs to the petitioner under the custody of the respondent.

For Petitioner :

Mr.Jeevarathinam

For Respondent :

Mr.C.Iyyappa Raj
Additional Public Prosecutor

ORDER

This Criminal Revision Petition has been filed to direct the respondent to release the vehicle Ashok Leyland White Tanker Lorry, Heavy Vehicle bearing Registration No.TN 05 BE 7925, Chassis No.MB1A3CFDXFRSN0897 and Engine No.FSHZ429795 belongs to the petitioner under the custody of the respondent.

2. The petitioner, who is the owner of the Ashok Leyland White Tanker Lorry, Heavy Vehicle bearing Registration No.TN 05 BE 7925, had filed a petition under Section 457 of Cr.P.C, to return the property before the Judicial Magistrate No.I, Tiruvallur in CrI.M.P.No.2791 of 2020, which came to be dismissed on 12.10.2020. Against which, the present revision petition has been filed.

3. The case of the prosecution is that on 01.09.2020, the respondent Police received an information that in the Secretariat Officer Colony, a Tanker Lorry bearing Registration No.TN 05 BE 7925 was found to be illegally unloading furnace oil of about 1000 litres and the oil was sold.

Thereafter, the defacto complainant/respondent police along with team had

gone to the scene of occurrence and caught the lorry driver. During enquiry, both of them gave contradictory answers. Later, it came to know that the furnace oil was purchased from BBC Oil Company and it was intended to be delivered to TVS Breaks India Limited at Sholingur. Thereafter, the accused were arrested and brought to the Police Station, the vehicle and the furnace oil were also seized from there. A1/Krishnan is a Trader and A2/Murugavel is the driver of the Tanker Lorry. The respondent police registered a case under Section 7(1)(a)(ii) against them.

4. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he has rented out the vehicle and the driver in collusion with another person had committed the offence. The petitioner is in no way connected with the offence. The vehicle had been seized and kept in the Police Station from 09.01.2020 and admittedly, in exposing the vagaries of weather, the vehicle, which contains 1200 litres of furnace oil, would cause damage to the surroundings. Further, the furnace oil is a combustible material and due to exposure to sun light and heat, it might cause explosion and damage the vehicle. The vehicle could be moved from there and oil to be delivered. The Trial Court, without considering these

aspects, had recorded that the vehicle seized had been handed over to the District Collector for confiscation proceedings. Till today, the petitioner had not received any notice with regard to the confiscation proceedings. Admittedly, as on date, the vehicle is not confiscated. This Court, time and again, had returned the property to the owner of the vehicle subject to the outcome of the confiscation proceedings. Further, the petitioner had relied upon the Judgment of the State of Maharashtra vs. Manishkumar S/o.Babulal Briyani in Criminal Revision Application No.22 of 1997 dated 07.08.1997 and the order of this Court in [CRL.O.P.No.21121](#), 21941, 21944 of 2013. He would further submit that without prejudice to his contention, he is ready and willing to deposit a sum of Rs.50,000/- to the credit of Rajiv Gandhi Government General Hospital for any Charitable Organisation.

5. The learned Additional Public Prosecutor would submit that on 01.09.2020 at about 9.00 p.m., the respondent police received an information about the illegality of unloading the furnace oil. Based on that, the defacto complainant/Inspector of Police had gone to the spot and found that A1 and A2 had drained 100 litres of furnace oil from the lorry. The accused were intended to deliver the furnace oil to TVS Breaks India Limited. On the way,

the accused were caught and the defacto complainant had seized 100 litres of furnace oil and the remaining 11900 litres of furnace oil in the lorry were seized and the investigation is still pending. Thereafter, the lorry and furnace oil were produced before the Judicial Magistrate No.1, Tiruvallur and the investigation has been transferred to the Tamil Nadu Civil Supplies (Food Sell), and the Civil Supplies is yet to take up the investigation, due to procedural formalities.

6. Considering the rival submissions, it is seen that the furnace oil kept in the lorry is a combustible material and it is dangerous to keep the lorry exposing to sunlight and heat, since there is a possibility of fire, which may lead to explosion. The petitioner is the owner of the lorry and the furnace oil belongs to TVS Company, Sholingur.

7. In view of the same, this Court is inclined to grant return of property and direct the petitioner to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only) to the Rajiv Gandhi Government General Hospital. The petitioner is directed to unload the furnace oil to the TVS Company, Sholingur and the measurement is to be measured and certified by the

officials of TVS Company. If TVS Company refused to receive the furnace oil, it should be returned to BBC Company, officials of BBC Company to certify the furnace oil drained from the vehicle. Thereafter, the petitioner to receive the empty tanker lorry and have the interim custody of the tanker lorry. The Revision is hereby allowed.

16.12.2020

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To:

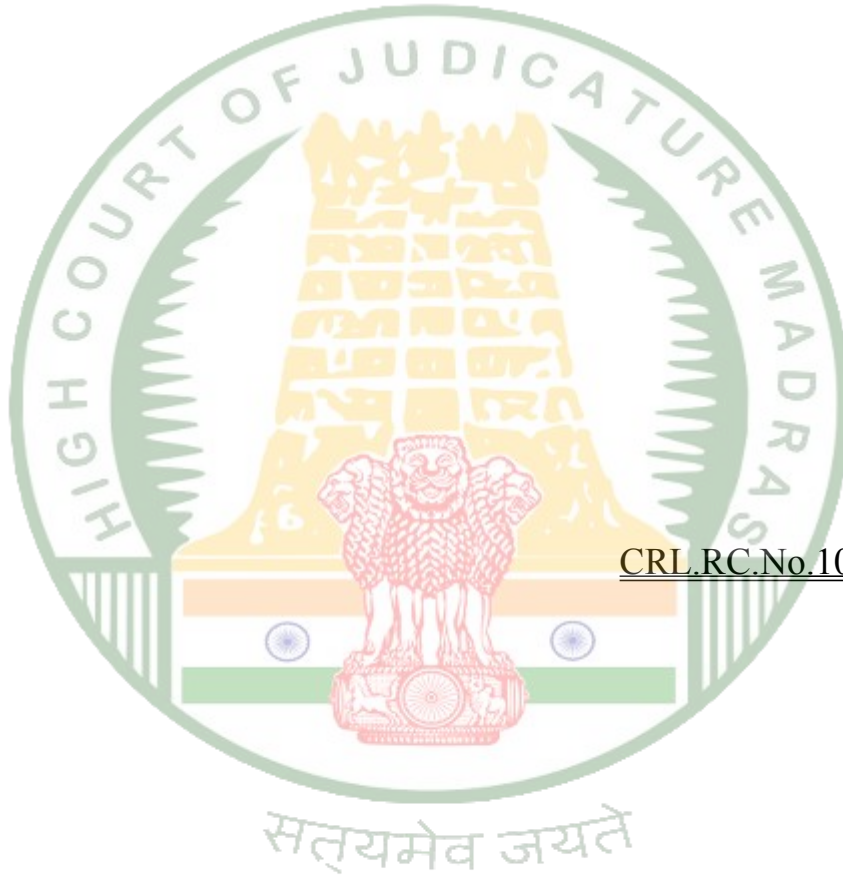
The Inspector of Police,
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M.NIRMAL KUMAR, J.

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