

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.01.2020

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THE HON'BLE MR. JUSTICE R.MAHADEVAN

CrI.R.C.No.1521 of 2019

Harish Babu

.. Petitioner

Vs.

The State rep. by
Inspector of Police,
Mohanur Police Station,
Namakkal District.
Crime No.299 of 2019

... Respondent

Prayer : Criminal Revision filed under Sections 397 read with Section 401 Cr.P.C. to call for the records relating to the order dated 20.08.2019 passed by the learned Principal Sessions Judge, Namakkal in CMP.No.1397 of 2019 and set aside the same.

For Petitioner :Mr.G.Magesh Kumar

For Respondent :Mrs.P.Kirtika Kamal, GA (CrI.Side)

O R D E R

This criminal revision has been filed seeking to set aside the order dated 20.08.2019 passed by the learned Principal Sessions Judge, Namakkal in CrI.M.P.No.1397 of 2019.

2. During regular rounds, the respondent police intercepted a vehicle viz., TATA Tipper Lorry bearing Registration No.TN 70 M 4487 (belonging to the petitioner), which illegally involved in sand theft, seized the vehicle and registered a case in Crime No.299 of 2019 under Section 379 IPC and Section 21(1) of the Mines and Minerals (Development & Regulation) Act, 1957. Seeking return of the vehicle, the petitioner, being the owner filed CrI.M.P.No.1397 of 2019 under Section 451 Cr.P.C. before the learned Principal Sessions Judge, Namakkal and the said petition was dismissed by order dated 20.08.2019, challenging which, the present petition has been filed.

3. Heard the learned counsel for the petitioner and the learned Government Advocate (CrI.Side) appearing for the respondent / State.

4. The learned Government Advocate (Crl.Side) submitted that there is no previous case against the petitioner nor this vehicle involved in any other case earlier. Though the reasons given by the trial Court in dismissing the petition cannot be faulted, yet, this Court is of the view that if the vehicle remains in the custody of the police indefinitely, it will get deteriorated.

5. In view of the guidelines given by the Supreme Court in *Sunderbhai Ambalal Desai Vs. State of Gujarat* [(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 bearing Registration No.TN 70 M 4487 to the petitioner within a period of 7 days from the date of compliance of the below mentioned conditions.

- i. the petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) 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 as non-refundable deposit;
- ii. the petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each for a like sum to the satisfaction of the learned Principal Sessions Judge, Namakkal. 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 he 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 learned Principal Sessions Judge, Namakkal;

vii.the petitioner is also directed to participate in the enquiry to be conducted by the respondent;

viii. It is also made clear that after release of the vehicle on complying with the conditions imposed by this court, if the said vehicle is found to be involved in any of the offence, it is always open to the respondent to proceed further for confiscation; and

ix.Petition relating to return of R.C. Book for any purpose in the future, may be filed before the learned Principal Sessions Judge, Namakkal, who may consider the same on merits.

6. This petition is allowed in the above terms.

Sd/-

Assistant Registrar

//True copy//

Sub Assistant Registrar

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To

1. The Principal Sessions Judge,
Namakkal.

2. The Inspector of Police,
Mohanur Police Station,
Namakkal District.

3. The Public Prosecutor,
High Court, Madras.

+1cc to Mr.G.Magesh Kumar, Advocate SR.No.3793

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AD(CO)

GMV (24/01/2020)