

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.02.2021

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THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl. OP No.3610 of 2021

M.Saravanan

... Petitioner/Accused

vs.

Sub Inspector of Police,
Panamadangi Police Station,
Vellore District.

Crime No.229 of 2020

... Respondent/Complainant

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, to direct the District and Sessions Judge, Vellore to take on file the Crl. M.P.(SR) No.5765 of 2020 filed by the petitioner praying to release his vehicle, Tractor bearing registration number TN-73:L-0849 and a Trailer which is unregistered, seized in Crime No.229 of 2020 (CP No.154 of 2020) and hand over the same to the petitioner within the stipulated time frame to be fixed by this Court.

For Petitioner : Mr.D.Thirumoorthy

For Respondents: Mr.C.Raghavan
Government Advocate (crl. Side)

ORDER

This petition has been filed for a direction to the Court below to entertain the application filed by the petitioner seeking for the release of the Tractor and Trailer which was seized by the respondent police in the course of investigation in Crime No.229 of 2020.

2. The respondent police registered an FIR in Crime No.229 of 2020 for an offence under Sections 379, 430 and 21(1). The FIR has been registered against the driver of the vehicle and the petitioner, who is the owner of the vehicle has been shown as an absconding accused in the FIR. The tractor and trailer belonging to the petitioner was seized and was produced before the Court below.

3. The petitioner filed an application for return of vehicle on 04.11.2020. At the time of filing the application, the petitioner had an RC Book only for the Tractor and insofar as the Trailer is concerned, the petitioner was in the process of getting an RC Book. The Court below has refused to entertain the application on the ground that the petitioner has not produced the RC Book, insofar as the Trailer is concerned. Aggrieved by the same, the present petition has been filed before this Court.

4. Heard Mr.D.Thirumoorthy, learned counsel appearing for the petitioner and Mr. C.Raghavan, learned Government Advocate appearing for the respondent.

5. It is seen from records that there is a valid registration standing in the name of the petitioner, insofar as the Tractor is concerned. The Trailer was purchased by the petitioner and the necessary forms have been submitted before the Competent Authority seeking for registration and the same is pending before the Registering Authority, Vellore. In the meantime, the tractor and trailer was seized by the respondent Police.

6. In view of the peculiar facts of the present case, the Court below is directed to entertain the application seeking for the return of Tractor and Trailer. The Court below shall take into consideration, the documents filed by the petitioner to prove his ownership of the Trailer and also the forms submitted by the petitioner for registration of the same. The Court below shall hear and pass orders in the application within a period of two weeks from the date of receipt of a copy of this order.

7. This Criminal Original Petition is disposed of with the above directions.

8. Incidentally this Court has been witnessing a recent development wherein First Information Report is registered by showing the name of a person as an absconding accused. This is more so in cases involving sand theft. The FIR has to be registered by mentioning the name of the accused, if it is known at the time of registration of the FIR. If it is not known, the FIR has to be registered against unknown accused persons. If the names of only some of the accused persons are made known at the time of registering the FIR, the name of the known accused must be mentioned and the name of the accused not known must be shown as others. As and when the names are gathered in the course of investigation, an alteration Report must be filed before the concerned Court by adding the names subsequently.

9. There is no scope to name an accused person in the FIR and mention him as an absconding accused. An accused will be termed to be absconding only if he had evaded right through the course of investigation and ultimately a Final Report is filed against such a person by showing him as an absconding accused. This standard practice must be followed in all cases and practice of showing somebody as an absconding accused in the FIR must be stopped forthwith. Mark a copy of this order to the Director General of Police (DGP) to take note of the guidelines given by this Court and issue necessary instructions to the Police across the State of Tamil Nadu.

Sd/-
Assistant Registrar(CS VII)

//True Copy//

Sub Assistant Registrar

jv
To

1. The District and Sessions Judge,
Vellore.
2. The Sub Inspector of Police,
Panamadangi Police Station,
Vellore District.
3. The Director General of Police,
Dr. Radhakrishnan Salai, Mylapore,
Chennai 600004.
4. The Public Prosecutor,
High Court of Madras,
Chennai 600 104.

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