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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 31.08.2021

CORAM:

THE HON'BLE Mr. JUSTICE P.VELMURUGAN

Criminal Revision Case No.517 of 2021

M.Nithya

... Petitioner/4th Accused

..vs..

State rep.

The Inspector of Police,
Nagoore Police Station,
Nagapattinam District,
Crime No.1537 of 2020.

...Respondent/Complainant

Criminal Revision Case filed under Section 397 r/w 401 Cr.P.C, to set aside the order dated 12.05.2021 passed in Crl.M.P.No.1518 of 2021 in Crime No.1537 of 2020 on the file of the learned District and Sessions Judge, Nagapattinam and to direct the respondent police to return the Ashok Leyland Captain Taurus Tipper lorry bearing Registration No. TN 19 AJ 6658 to the petitioner.

For Petitioner : Mr.S.Vinoth Kumar

For Respondent : Mr.S.Sugendran
Government Advocate (Crl.Side)

O R D E R

By consent of both parties, the Criminal Revision Case is taken up for final hearing at the admission stage itself.

2.This Criminal Revision Case has been filed against the order dated 12.05.2021 passed in Crl.M.P.No.1518 of 2021 by the learned District and Sessions Judge, Nagapattinam.

3.It is the case of the petitioner that the respondent police registered a case in Crime No.1537 of 2020 against her for the offence under Section 379 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and seized the vehicle viz., Ashok Leyland Captain Taurus Tipper lorry bearing Registration No.TN 19 AJ 6658. During the pendency of the investigation, the petitioner filed a petition in Cr.M.P.No.1518 of 2021 under Section 451 and 457 of Cr.P.C seeking return of the vehicle, which was dismissed by the Court below, against which the petitioner is before this Court with the present Criminal Revision Case.



4.The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and she has got proper trip sheet from the quarry owner and transported Savudu sand. However, the respondent police falsely implicated the petitioner and registered the case against her by stating that the said vehicle has been used for transporting Savudu sand, without proper permission and also seized the vehicle. He would further submit that the vehicle in question is left idle in the open space for more than one year thereby, the condition of the vehicle is getting deteriorated and the value of the vehicle is lost thereby, putting the petitioner to hardship and hence, the petitioner seeks interim custody of the vehicle and that she would abide by stringent conditions, if any, to be imposed on her.

5.The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was involved in the case of illegal transportation of 6 units of Savudu Sand and if the vehicle in question is returned to the petitioner, the same would again be used for similar illegal sand mining. He would further submit that investigation has not yet been completed and charge sheet has also not been filed and hence, the vehicle in question cannot be released at this stage.

6.Heard the learned counsel on either side and perused the materials available on record.

7.Admittedly, the case was registered against the petitioner for the offence under Section 379 IPC and Section 21(1) of Mines and Mineral (Development & Regulation) Act, 1957. This Court, time and again, gave a direction that stringent action should be taken in the cases of theft of Mines and Minerals and also natural resources. It is seen that in the present case, investigation is pending and charge sheet has not yet been filed. If at all, after investigation found that the vehicle is involved in the commission of offence, it is liable to be confiscated. The release of the vehicle during investigation is purely the discretionary power of the Court below. The learned Sessions Judge by exercising the discretionary jurisdiction has dismissed the petition filed by the petitioner. This Court, while exercising the revisional jurisdiction cannot conduct roving enquiry at this stage.

8.In view of the same, this Court does not find any perversity or infirmity in the order passed by the Court below. Accordingly, this Criminal Revision case is dismissed.

Sd/-

Assistant Registrar (CS-VIII)

//True Copy//



1.The District and Sessions Judge,
Nagapattinam.

2.The Principal Sessions Judge,
Nagapattinam.

3.The Inspector of Police,
Nagoore Police Station,
Nagapattinam District.

4.The Public Prosecutor,
High Court, Madras.

Cr1.R.C.No.517 of 2021

GJ(CO)
GN(17/09/2021)