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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 03.12.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

CRL.R.C.NO.838 OF 2021

Narasingamoorthy

... Petitioner

.Vs.

The State Rep. by
The Inspector of Police,
J-12, Kanathur Police Station.
Cr.No.37/2021.

... Respondent

PRAYER:-

The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to call for records in CrI.M.P.No.1387 of 2021 on the file of the Judicial Magistrate-II, Alandur dated 11.10.2021, set aside the same and direct the respondent to release the petitioner's vehicle Ashok Leyland (Dost+RLS) Reg. No. TN 85 M 5698, Engine No.BLH027706P, Chasis No.MB1AA22E3LRBF6708 to the petitioner.

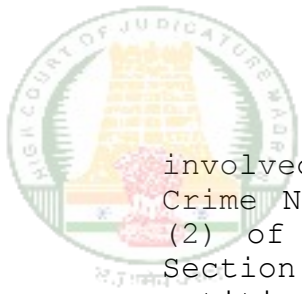
For Petitioner : Ms.S.Sengkodi

For Respondent : Mr.S.Sugendran
Government Advocate [Crl. Side]

O R D E R

This Criminal Revision Petition has been filed challenging the dismissal of the petition filed, seeking for return of property.

2. Learned counsel for the petitioner would submit that the petitioner is the owner of a (Dost+RLS) Reg. No. TN 85 M 5698, Engine No.BLH027706P, Chasis No.MB1AA22E3LRBF6708. She would submit that the petitioner has been using the vehicle for the transport business by engaging drivers. The drivers of the petitioner, without the knowledge of the petitioner, had



involved the vehicle in a case registered by the respondent in Crime No.37 of 2021 for the offences punishable under 7 r/w 20 (2) of the Cigarette and other TOBACCO Product Acts, 2003 and Section 328 of I.P.C. She would further submit that the petitioner was falsely implicated on the basis of the confession recorded from the other arrested accused persons and they were later released on bail.

3. Learned counsel for the petitioner would also submit that the vehicle which has been seized by the respondent in this case has been parked in the open exposed to vagaries of weather and thereby the value of the vehicle is deteriorating day by day. She would submit that the petitioner had filed a petition seeking for return of property in Crl.M.P.No.1387 of 2021 on the file of the Judicial Magistrate-II, Alandur, the learned Judge stating that the investigation is pending and the samples have been sent to the Forensic Lab and the report has not yet been received, had dismissed the case. Learned counsel for the petitioner would submit that there is no purpose in retaining the vehicle. Further, she would submit that the petitioner would undertake that he will not dispose the vehicle and that he would abide any stringent conditions that may be imposed on him and that the petitioner would be prepared to produce the vehicle before the respondent as and when required for the purpose of investigation or otherwise.

4. Mr.S.Sugendran, Learned Government Advocate(Crl.Side) appearing for the respondent would submit that the vehicle was used by the accused for illicit transport of banned tobacco substance and that the respondent has registered a case in Crime No.37 of 2021 and that the vehicle was seized. He would further submit that the investigation is pending.

5. Heard the learned counsels on both sides and perused the materials on record.

6. Taking into consideration of the facts and circumstances of the case, this Court is of the opinion that the interim custody of the vehicle can be granted to the petitioner.

7. In view of the above, the order dated 11.10.2021 passed in Crl.M.P.No.1387 of 2021 stands set aside and the Criminal Revision Petition stands allowed and the interim custody of the vehicle is directed to be handed over to the petitioner subject to the following conditions:

- (i) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records,



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retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;

(iii) The petitioner is directed to deposit a sum of Rs.50,000/- (Rupees Fifty Thousand Only), as non-refundable deposit through RTGS/NEFT in favour of the Joint Secretary & Treasurer, Chief Minister's Public Relief Fund, Finance (CMPRF) Department, Government of Tamil Nadu, Secretariat, Chennai 600 009, Tamil Nadu, India, e-mail: jscmprf@tn.gov.in or by Electronic Clearing System (ECS) to Indian Overseas Bank, Secretariat Branch, Chennai 600 009, S.B.Account No.11720 10000 00070, IFS Code IOBA0001172, CMPRF PAN: AAAGC0038F and on such payment and production of proof, the vehicle shall be returned;

(iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;

(v) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

Sd/-
Assistant Registrar(CS V)

//True Copy//

Sub Assistant Registrar

vri/shk

To

1. The Judicial Magistrate-II,
Alandur.



2. The Inspector of Police,
J-12, Kanathur Police Station,
ECR, Chennai.
3. The Public Prosecutor (Crl. side),
High Court, Madras.

+1cc to Ms.S.Sengkodi, Advocate, S.R.No.63335

CRL.R.C.No.838 of 2021

RSV(CO)
PBS/14/12/2021