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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 24.11.2021

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Cr1.R.C.No.812 of 2021

B.Rajan

...Petitioner/Petitioner

Vs.

State rep. by
The Inspector of Police,
CSCID Tiruvallur Police Station.
Cr.No.244 of 021

...Respondent/Complainant

PRAYER: The Criminal Revision Petition is filed under Section 397 & 401 of the Code of Criminal Procedure, to set aside the order dated 05.10.2021 made in Cr1.M.P.No.5850 of 2021 on the file of Judicial Magistrate-I, Tiruvallur for return of property of the Vehicle namely Bharat Benz Goods Carrier (Tanker Lorry) bearing Registration No. TN 12 AC 8974 to the petitioner herein and consequently direct the respondent police to return the vehicle namely Bharat Benz Goods Carrier (Tanker Lorry) bearing Registration No. TN 12 AC 8974, 2019 year Model, Engine No. 400952D0078942, Chassis No. MEC2246CAKP077831, Colour - Yellow NP Colour seized in Crime No.244 of 2021 to the petitioner.

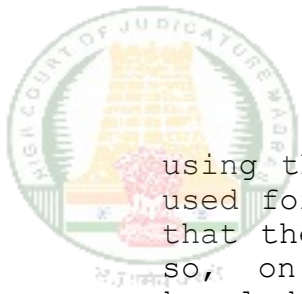
For Petitioner : Mr. M.I.Javid Akbar

For Respondent : Mr.S.Sugendran
Government Advocate [Cr1. Side]

O R D E R

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

2. Learned counsel for the petitioner would submit that the petitioner is the owner of a Bharat Benz Goods Carrier (Tanker Lorry) bearing Registration No. TN 12 AC 8974, 2019 year Model, Engine No. 400952D0078942, Chassis No. MEC2246CAKP077831, Colour - Yellow NP Colour. He would submit that the petitioner has been



using the vehicle for the transport of hexane chemical which is used for paint manufacturing industries. He would further submit that the petitioner is doing business by engaging drivers. While so, on 15.09.2021, the driver of the vehicle without the knowledge of the petitioner and in connivance with the other accused had taken the lorry to another shed and removed hexane from the lorry and the petitioner understood that it has been used for mixing it with diesel and selling it in the black market.

3. Learned counsel for the petitioner would further submit that the respondent on information, had registered a case in Crime No.244 of 2021 and had seized 400 litres of adulterated diesel and the lorry was also seized by the respondent police. He would further submit that the respondent had conducted an investigation and finding that the petitioner is not involved in the case, has not added the petitioner as an accused in this case.

4. Learned counsel for the petitioner would further submit that the petitioner had filed a petition in CrI.M.P.No. 5850 of 2021 before the learned Judicial Magistrate-I, Tiruvallur, seeking for return of property and the learned Judicial Magistrate-I, Tiruvallur had dismissed the petition stating that the confiscation proceeding has been initiated. He would also submit that the petitioner has not been served with the notice of confiscation till date. He would further submit that the petitioner is put to severe hardship and loss, since the vehicle is parked in the open exposed to vagaries of weather and thereby the value of the vehicle is deteriorating day by day. He would also 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 and he would also submit that the petitioner would undertake to appear before the respondent in the event of notice being issued for confiscation of the vehicle.

5. Mr.S.Sugendran, Learned Government Advocate(CrI.Side) appearing for the respondent would submit that the vehicle was used by the other accused for transporting hexane and the hexane was used for preparing adulterated diesel and the respondent has registered a case in Crime No. 244 of 2021 for the offences punishable under Section 3 of Motor Spirit & High Speed Diesel (Regulation of supply and distribution and prevention of malpractices) Order, 1998 r/w 7(1)(a)(iii) Essential commodities Act, 1955 and seized the adulterated diesel and the lorry which was found in the place. He would further submit that the investigation is pending and that the vehicle is now handed over



to the D.R.O for initiating confiscation proceedings. However, he would admit that notice of confiscation has not been served on the petitioner till date.

6. Taking into consideration of the facts and circumstances of the case that the petitioner is not an accused, 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 dated 05.10.2021 made in CrI.M.P.No.5850 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:

a) The petitioner shall execute a bond for a sum of Rs.4,00,000/- (Rupees Four Lakhs only) with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate-I, Tiruvallur.

b) The petitioner shall produce the Original RC book of the vehicle in question before the concerned Trial Court and file an affidavit of undertaking that he will not dispose or alter physical features of the vehicle and that he will produce the vehicle before the trial Court as when required by the trial Court or the Investigating Agency.

c) The RC book of the vehicle shall be retained by the trial Court till the disposal of the trial or until further orders.

7. The concerned D.R.O. is at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

vri/rgi

To

1. The Judicial Magistrate Court No-I,
Tiruvallur.



2. The Inspector of Police,
CSCID Tiruvallur Police Station.

3. The District Revenue Officer,
Tiruvallur.

+2ccs to Mr. M.I.Javid Akbar, Advocate, S.R.No.60550

Cr1.R.C.No.812 of 2021

AK-II[co]
NSK 08/12/2021