



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.273 of 2022

Kannan

... Petitioner

Versus

The State by the
The Inspector of Police,
Keezhapaluvur Police Station,
Crime No.176 of 2021.

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to set aside the order in Crl.M.P.No.2489 of 2021 passed by the learned Principal District and Sessions Judge, Ariyalur Sessions Division, Ariyalur, dated 29.07.2021.

For Petitioner : Mr.P.Tamilavel

For Respondent : Mr.S.Vinoth Kumar,
Government Advocate (Crl.Side)

O R D E R

The vehicle belonging to the petitioner was seized in the investigation of Crime No.176 of 2021 for an alleged offence of sand theft. The petitioner filed an application for return of vehicle under Section 451 of Code of Criminal Procedure which was rejected by the Trial Court on the ground that the very same vehicle was earlier involved in a similar offence and even though the vehicle was returned with a condition that the petitioner should not indulge in similar type of offence, the vehicle is again involved in the same offence.

2. The learned Counsel appearing on behalf of the petitioner would submit that in the earlier case, the petitioner was not at all an accused and as a matter of fact, unauthorisedly, his driver had indulged in a wordy quarrel with a person of another vehicle which resulted in the earlier case and therefore, his case should not be rejected on the ground that the vehicle was involved in a similar case in the earlier occasion.

3. Per contra, the learned Government Advocate (Crl. Side) submitted that inspite of the condition imposed in the earlier



occasion, the petitioner is involved in a similar offence and therefore, the vehicle was rightly refused to be returned by the Trial Court.

4. I have considered the rival submissions made on either side and perused the material records of the case. Though the Trial Court as well as the learned Government Advocate are right in considering that there was one previous case, even then the vehicle cannot be allowed to rot and therefore, a decision has to be taken about the seized vehicle.

5. Therefore, considering the overall facts and circumstances of the case, even though the petitioner is the second offender, the same can be taken care of by imposing an additional condition of depositing of Rs.50,000/- to the credit of Mining Funds of the District Collector which can be utilised for the restoration of the environment. Therefore, since the petitioner is the lawful owner of the vehicle, I am inclined to order release of the vehicle with the following terms:-

(i) The order of the learned Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur, in CrI.M.P.No.2489 of 2021, dated 29.07.2021, is set aside.

(ii) The petitioner will be entitled for return of the Ashok Leyland Tipper, bearing Registration No.TN 22 BY 4609, having Chassis No.LNE64885, Engine No.LNH529393.

(iii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Judge, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(iv) The petitioner shall not alter or alienate the vehicle in any manner till adjudication is over;

(v) 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 and by the court below and as well as by the District Collector of the District or authorized officer in that behalf by the Government.

(vi) 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.



(vii) The petitioner shall not indulge in the similar offence either by using the present vehicle or any other vehicle. If the petitioner is found to be involved in any of similar offence in future either by way using the present vehicle or through any other vehicle, this order of returning the present vehicle (Ashok Leyland Tipper, bearing Registration No.TN 22 BY 4609, having Chassis No.LNE64885, Engine No.LNH529393), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned;

(viii) Considering this is second offence, the petitioner shall also deposit a sum of Rs.50,000/- to the credit of Mining Funds of the District Collector and it is also made clear that if the petitioner, by this vehicle or by any other vehicle, involves in further offence of similar in nature, the order of return of this vehicle shall stand vacated automatically and the vehicle will be seized and repossessed.

6. The Criminal Revision Case is allowed accordingly.

Sd/-
Assistant Registrar(CS VIII)

//True Copy//

Sub Assistant Registrar

grs

To

1. The Principal Sessions Judge,
Ariyalur Sessions Division, Ariyalur.
2. The Public Prosecutor,
High Court of Madras.
3. The Inspector of Police,
Keezhapaluvur Police Station.

+1cc Mr.P.Tamilavel, Advocate S.R.No.37730. (21/06/2022)

Cr1.R.C.No.273 of 2022

NK(CO)
CT/20/06/2022