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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.04.2022

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THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.428 of 2022

Vaithiyanathan

...Petitioner

Vs.

The State

Rep by the Inspector of Police,
Thiruvankadu Police Station,
Nagapattinam District
(crime No.88 of 2021)

...Respondent

PRAYER: Criminal Revision Case filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed by the learned District and Sessions Judge, Nagapattinam in Crl.MP.No.607 of 2021 dated 23.02.2021 dismissing the petition to return the vehicle of Tractor along with Tipper bearing Registration No.TN-82-V-6144 to the petitioner.

For Petitioner : Mr.R.Subramanian

For Respondent : Mr.Leonard Arul Joseph Selvam,
Government Advocate(crl.side)

ORDER

This revision has been filed against the dismissal of the petition in Crl.MP.No.607 of 2021 dated 23.02.2021 passed by the learned District and Sessions Judge, Nagapattinam seeking for return of the vehicle of Tractor along with Tipper bearing Registration No.TN-82-V-6144.

2. The brief facts of the case :-

The respondent has registered a case in Cr.No.88 of 2021 for the offence under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 and had seized the vehicle of Tractor along with Tipper bearing Registration No.TN-82-V-6144 for having used the same for transportation of illegal sand mining. The petitioner who is the owner of the vehicle and not arrayed as an accused, had filed Crl.MP.No.607 of 2021 under Sections 451 & 457 Cr.PC seeking for return of the vehicle. The learned District and Sessions Judge, Nagapattinam finding that if the vehicle is released, there is a possibility of redeployment of the said vehicle for committing the same offence with another set of



drivers, had dismissed the petition for return of the vehicle by order dated 23.02.2021, against which the present revision has been filed.

3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle and he is not an accused in this case. The respondent police had registered a false case as if the said vehicle of the petitioner was used in the illegal sand mining and thereby, the petitioner's vehicle has been seized by the respondent. He would submit that the petitioner appeared for enquiry and the respondent finding that the petitioner has nothing to do with the offence had not implicated the petitioner in the crime. The petitioner is put to severe hardship and loss due to the detention of the vehicle. He would submit that the petitioner is prepared to contest the confiscation proceedings, if any, by giving a reply. He would submit that the vehicle is now kept in the open place, exposed to the vagaries of weather and thereby the value of the vehicle is getting deteriorated day by day. He would submit that the petitioner is prepared to abide by any stringent condition that may be imposed on him and that he is prepared to produce the vehicle as and when required by the respondent/police or confiscating authority.

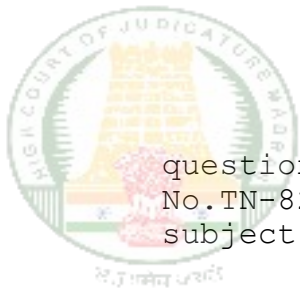
4. The learned Government Advocate (Crl. side) appearing for the respondent police would submit that the vehicle of Tractor along with Tipper bearing Registration No.TN-82-V-6144 was seized by the respondent in connection with the Cr.No.88 of 2021 for having used in transportation of illegal sand mining. He would submit that the petitioner is not an accused in this case and so far the respondent has not initiated confiscation proceedings.

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

6. The petitioner is the owner of vehicle of Tractor along with Tipper bearing Registration No.TN-82-V-6144. The petitioner is not an accused in this case. Further the respondent has not initiated any confiscation proceedings so far.

7. Taking into consideration the fact that the petitioner who has filed this revision is not arrayed as an accused in the above case and respondent has not initiated any confiscation proceedings so far, this Court is of the opinion that the interim custody of the vehicle may be handed over to the petitioner subject to imposition of conditions.

8. Accordingly, the Criminal Revision is allowed and the impugned order, dismissing the petition for return of vehicle in Crl.MP.No.607 of 2021 dated 23.02.2021 passed by the learned District and Sessions Judge, Nagapattinam, is hereby set aside and that the interim custody of the vehicle in



question, Tractor along with Tipper bearing Registration No.TN-82-V-6144 shall be handed over to the petitioner, subject to the following conditions:

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i) The petitioner shall execute a bond for a sum of Rs.50,000/- with two sureties for a like sum to the satisfaction of the learned District and Sessions Judge, Nagapattinam.

ii) The petitioner shall produce the Original RC Book of the vehicle in question before the learned District and Sessions Judge, Nagapattinam and file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the said Court as and when required by the Trial Court or the Investigating Agency.

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

The respondent is at liberty to proceed 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-II)

//True Copy//

Sub Assistant Registrar

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To

1.The learned District and Sessions Judge,
Nagapattinam.

2.The Inspector of Police,
Thiruvankadu Police Station,
Nagapattinam District

3.The Public Prosecutor,
High Court, Madras.

+1cc to Mr.R.Subramanian, Advocate SR. No. 23579

Crl.RC.No.428 of 2022

SS (CO)

PR (06/05/2022)