



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2022

CORAM:

THE HONOURABLE MR.JUSTICE R.PONGIAPPAN

Crl.RC.No.493 of 2022

Sagadevan
Petitioner

...

vs.

The State rep by,
The Sub Inspector of Police,
Kuvagam Police Station,
Kuvagam,Ariyalur District

...Respondent

PRAYER:Criminal Revision filed under Sections 397&401 of Cr.P.C. praying to set aside the order dated 28.01.2022 passed in Crl.MP.No.4979 of 2021 by the learned Principal Sessions Judge, Ariyalur and to direct the respondent police to release the lorry bearing registration No.TN 46 H 1464 to the petitioner for interim custody.

For petitioner : Mr.D.Arun

For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl.Side)

ORDER

The present criminal revision has been filed praying to set aside the order dated 28.01.2022 passed in Crl.MP.No.4979 of 2021 by the learned Principal Sessions Judge, Ariyalur and to direct the respondent police to release the lorry bearing registration No.TN46H 1464 to the petitioner for interim custody.

2. The case of the petitioner is that the respondent police have registered a case against the petitioner's driver for the alleged offence punishable under Sections 21(1), 21(2) of Mines and Minerals (Development and Regulation) Act, 1957 r/w Section 379 of IPC in crime No.183 of 2021. In connection with the said case, the petition mentioned vehicle i.e. Tata Ace bearing registration No.TN 46 H 1464 was recovered by the respondent police. The petitioner who is the owner of the vehicle is not aware that his son carried on the above said vehicle for such transportation since he has no habit of transportation of river sand or any wrong doings. If the vehicle is parked in the open yard exposing to sun and rain, the value of the property becomes deteriorated. The learned Principal Sessions Judge, without considering those aspects, dismissed the



petition filed by the petitioner in CMP.No.4979 of 2021 dated 28.01.2022 which is filed by the petitioner for return of the property to interim custody. Therefore, the petitioner is before this Court.

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3.The learned Government Advocate(crl.side) appearing for the respondent police raised objection stating that the petitioner is arrayed as an accused in the above referred case and therefore, if the vehicle is returned to the petitioner for interim custody, there may be a chance for tampering the evidence and for altering the character of the lorry.

4.Now on considering the said submissions with the relevant records, in the impugned order passed by the learned Principal Sessions Judge, Ariyalur, in page No.3, the trial court has categorically held that the case of the prosecution is that without the permission of the concerned authority, the petitioner was carrying river sand by using the petition mentioned vehicle. Therefore, the impugned order passed by the learned Principal Sessions Judge disclose the fact that the petitioner is an accused in the alleged occurrence. On the other hand, on going through the F.I.R., the averment found in the F.I.R. would disclose the fact that the petitioner is not a named accused. In this occasion, on going through the averments in the petition filed by the petitioner, he has stated that without his knowledge, his son committed the offence.

5. Now on considering the same with the name of the accused in the F.I.R., the name of the petitioner is not mentioned as he is the father of the accused. Accordingly, something was suppressed in this petition and thereby, the petitioner is attempted to achieve his goal by placing false information. Therefore, for the said reason alone, the petition filed by the petitioner is liable to be dismissed with cost.

6.Accordingly in view of the same, this criminal revision is dismissed with cost of Rs.5,000/- (Rupees Five Thousand only), which has to be paid to the District Legal Services Authority, Ariyalur by the petitioner within a period of two weeks from the date of receipt of copy of this order.

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18.04.2022

For Being Mentioned

The matter having been listed on 22.04.2022 under the caption "For being Mentioned" in pursuance of order dated 18.04.2022 and made herein and in the presence of the Mr.D.Arun, Advocate for the Petitioner and of



Mr. Leonard Arul Joseph Selvam, Government Advocate
Criminal Side for the Respondent and this court made the
following order:

This criminal revision has been listed today under
the caption "for being mentioned".

2. The learned counsel appearing for the petitioner would submit that while at the time the matter was came up for hearing on 18.04.2022, one junior advocate attached with some other office, without knowing the facts of the case, misrepresented before the Court and thereby, this Court dismissed the petition after imposing a cost of Rs.5,000/- According to him, the petitioner is a poor cooli, unable to pay such cost and therefore, the quantum of cost may be reduced.

3. Now on considering the said submissions with the relevant records, it is not in dispute that the petitioner is an accused in the petition mentioned case. Only on that ground, the petition filed by the petitioner was dismissed on 18.04.2022. In otherwise, on that date, the counsel appearing for the petitioner, without understanding the facts of the case, made his submissions.

4. Considering the facts and circumstances of the case, this Court is inclined to reduce the cost to Rs.1,000/-. Accordingly, it is ordered that the sixth paragraph of the order dated 18.04.2022 in CrI.RC.No.493 of 2022 shall read as follows:

"6. Accordingly in view of the same, this criminal revision is dismissed with cost of Rs.1,000/- (Rupees One Thousand only), which has to be paid to the District Legal Services Authority, Ariyalur by the petitioner within a period of two weeks from the date of receipt of copy of this order."

5. The Registry is directed to issue a fresh order copy of the order passed in CrI.RC.No.493 of 2022 dated 18.04.2022 after making necessary correction as above.

Sd/-
Assistant Registrar(CO)

//True Copy//

Sub Assistant Registrar

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To

1. The learned Principal Sessions Judge,
Ariyalur
2. The Sub Inspector of Police,
Kuvagam Police Station,
Kuvagam,
Ariyalur District
3. The Public Prosecutor,
High Court, Madras.
4. The District Legal Services Authority,
Ariyalur.

Crl.RC.No.493 of 2022

SPD(CO)
RGA(28/04/2022)