



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.649 OF 2022

Sambath Kumar

...Petitioner / Accused

Versus

State rep. by
The Sub-Inspector of Police,
Valathy Police Station,
Villupuram District.
(Crime No.83/2022)

...Respondent / Complainant

Criminal Revision Case filed under Section 397 read with 401 Cr.P.C, to call for the records related to Crl.M.P.No.1224 of 2022 on the file of Judicial Magistrate, Gingee and set aside the same and order return of the vehicle Mahindra and Mahindra Tractor bearing Regn. No.TN 16 W 6157 to the custody of the petitioner herein in Cr.No.83 of 2022 on the file of the Respondent Police.

For Petitioner : Mr.D.Bennington

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

O R D E R

The petitioner is the owner of the Agricultural Tractor, vehicle viz., Mahindra & Mahindra Model 575 DI POWER+. Red color, bearing Registration No.TN-16-W-6157, having Chassis No.MBNAALGAKZH03164, Engine No.ZKH3MAA3921. The said vehicle was seized by the respondent police, for illegal sand theft, for which a case in Crime No.83 of 2022 was registered and the said vehicle was produced before the Learned Magistrate in C.P.No.323 of 2022.

2. The petitioner approached the learned Magistrate by way of Crl.MP.No.1224 of 2022 under Section 457 r/w 451 of the Code of Criminal Procedure for Return of the above said Vehicle, to him, pending the investigation and trial. Therefore, the learned Magistrate refused by an order dated 26.04.2022, as against which the present revision is filed.



3. The learned counsel for the petitioner would submit that the petitioner is the owner of the vehicle. Unless return of vehicle is ordered, the petitioner would be put to irreparable prejudice as the vehicle would rot and become unusable, unless the same is returned to the petitioner. The petitioner would abide by all or any other conditions that may be imposed on him by this Court.

4. Per contra, the learned Government Advocate (Crl.Side) appearing for the respondent/police would submit that on release of this vehicle, there is a likelihood of the petitioner indulging in the similar type of offence once again, and therefore, he opposes granting of the prayer in the revision.

5. I have considered the rival submissions made on behalf of both sides and perused the material records on this case.

6. Though rightly argued by the learned Government Advocate (crl.side), that the petitioner will involve in similar case, it is also to be seen that as far as the present vehicle is concerned, this is the first case. As far as the objection regarding involvement in similar cases is concerned, the same can be appropriately safeguarded by imposing adequate conditions. Therefore, I am of the view that the vehicle ought to be returned to the petitioner, who's admittedly the lawful owner.

7. The Criminal Revision is therefore, allowed on the following terms:-

(i) The order of the Learned Judicial Magistrate, Gingee, in Crl.M.P.No.1224 of 2022, dated 26.04.2022, is set aside;

(ii) The petitioner will be entitled for return of the Agricultural Tractor, vehicle viz., Mahindra & Mahindra Model 575 DI POWER+. Red color, bearing Registration No.TN-16-W-6157, having Chassis No.MBNAAALGAKZH03164, Engine No.ZKH3MAA3921;

(iii) 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, 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;

(vii) 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; and

(viii) 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 (Agricultural Tractor, vehicle viz., Mahindra & Mahindra Model 575 DI POWER+. Red color, bearing Registration No.TN-16-W-6157, having Chassis No.MBNAAALGAKZH03164, Engine No.ZKH3MAA3921), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

Sd/-

Assistant Registrar (CS-IV)

// True Copy //

Sub Assistant Registrar

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To

- 1.The Judicial Magistrate,
Gingee.
- 2.The Sub-Inspector of Police,
Valathy Police Station,
Villupuram District.
- 3.The Public Prosecutor,
High Court of Madras.

+1cc to Mr.D.Bennington, Advocate Sr.No.32987

Cr1.R.C.No.649 of 2022

SSD(CO)
RVM(17/06/2022)