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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

CRL.R.C.NO.719 OF 2022

Sathiyaseelan @ Gundappa M/35 years

... Petitioner

Versus

The State Rep. by
The Inspector of Police,
Thittacherri Police Station,
Nagapattinam District.

... Respondent

PRAYER:-

Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to call for the records and set aside the order passed in Crl.M.P.No.2321 of 2020 on the file of the Principal District and Sessions Judge, Nagapattinam in Crime No.3 of 2020 on the file of the respondent, dated 11.09.2020 and direct the respondent to release the Tractor attached with Tipper bearing Registration No.TN 51 C 4379 and allow this Criminal Revision.

For Petitioner : Mr.J.Jawahar

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

O R D E R

This Criminal Revision is filed aggrieved by the order dated 11.09.2020 passed by the learned District and Sessions Judge, Nagapattinam in Crl.M.P.No.2321 of 2020, thereby refusing the prayer of return of interim custody of the vehicle, bearing Registration No.TN 51 C 4379.



2. On a perusal of the order, the learned Judge has painfully noted that there were rampant illegal quarrying of sand in river Cauvery, which is the lifeline of the delta districts of Tamil Nadu. As a matter of fact, the learned Judge has bunched number of petitions seeking return of Lorries and painfully noted that the river Cauvery would walk only if there is sand. Unless the river walks, it will be no use to any person, therefore, the importance of the sand is greater than the vehicle getting rotten and becoming useless. Hence, the Trial Court has dismissed the application for return of vehicle.

3. However, the learned Judge has also directed the respondents to initiate confiscation proceedings. Till date the respondents are indifferent to the said directions and have not initiated any proceedings for confiscation.

4. Therefore, this Court so as to balance the rightful apprehensions expressed by the learned Judge and considering the nature of the offence committed, and while taking note of the Judgment of the Hon'ble Supreme Court of India in Sundarbhai Ambalal Desai vs. State of Gujarat¹, feels that the balance can be struck by imposing the stringent financial condition while returning the vehicle. Since the respondent /Police have not initiated confiscation proceedings in spite of the direction of the learned District and Sessions Judge, Thiruvallur, I am of the view that instead of refusing the interim custody, the due anxiety expressed by the learned District and Sessions Judge, can be taking note of by imposing condition to deposit a sum of Rs.1 Lakh to the District Mining Fund maintained by the District Collector. Accordingly, the Criminal Revision is ordered on the following terms:-

(i) The order of the Principal District and Sessions Judge, Nagapattinam District, in Crl.M.P.No.2321 of 2020, dated 11.09.2020, is set aside.

(ii) The petitioner shall deposit a sum of Rs.1,00,000/- (Rupees One Lakh only) to the credit of Mining Funds of the District Collector, Nagapattinam. It is made clear that the deposit amount of Rs.1 Lakh is not refundable.

(iii) The petitioner will be entitled to the return of the vehicle that on his undertaking to duly carry out the name transfer and thereafter produce the copy of the Registration Certificate to the Learned Magistrate, in the name of the petitioner, within a period of four weeks from the date of receipt of a copy of this order.

1 (2002) 10 SCC 283



(iv) The petitioner will be entitled for return of the vehicle viz., Tractor attached with Tipper, Maker's name : M/s.Eicher Tractors, bearing Registration No.TN 51 C 4379, having Classic No.911413052948, Engine No.A17685.

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(v) 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;

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

(vii) 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.

(viii) The petitioner shall participate in the confiscation proceedings if any, initiated and shall produce the vehicle before the confiscation authority. This order is subject to the confiscation proceedings.

(ix) The petitioner shall not indulge in 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 (Tractor attached with Tipper, Maker's name : M/s.Eicher Tractors, bearing Registration No.TN 51 C 4379, having Classic No.911413052948, Engine No.A17685), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produced before the Court concerned.

Sd/-
Assistant Registrar(CS IV)

//True Copy//

Sub Assistant Registrar

klt



To

1. The Principal District and Sessions Judge,
Nagapattinam.
2. The Inspector of Police,
Thittacherri Police Station,
Nagapattinam District.
3. The Public Prosecutor,
High Court of Madras.

+1cc to Mr.J.Jawahar, Advocate, S.R.No.36105

CRL.R.C.NO.719 OF 2022

PM(CO)
PBS/30/06/2022