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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.727 of 2022

R.Shanmuga Sri (M/42 years) ... Petitioner/Owner of Vehicle

Versus

State Rep.by the Inspector of Police,
Thirukannapuram Police Station,
Nagapattinam District.

... Respondent

Criminal Revision Case filed under Section 397 read with 401 Code of Criminal Procedure, to set aside the order dated 05.05.2022 in Crl.M.P.No.1178 of 2022 on the file of the Learned Principal District and Sessions Judge, Nagapattinam District in connection with the Crime No.71 of 2022, on the file of the respondent/police.

For Petitioner : Mr.M.Rebecca

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

O R D E R

This Criminal Revision is filed aggrieved by the order dated 05.05.2022 in Crl.M.P.No.1178 of 2022 on the file of the learned Principal District & Sessions Judge, Nagapattinam, whereby the prayer for returning the vehicle viz., Hitachi, bearing Registration No.KA 28 D 3169 has been rejected.

2.The learned Judge has taken note of the case of the prosecution that the vehicle has been used for illegal transportation of $\frac{1}{4}$ unit of Savudu sand from the river Porakudi Thirumalai Rajan, and it was seized by the respondent/Police for having committed the offences punishable under Sections 379 & 420 IPC r/w Section 21(1) of Mines & Minerals (Development & Regulation) Act, 1957, while refusing to release the vehicle to the custody of the petitioner.

3.The learned counsel appearing on behalf of the petitioner would submit that the petitioner engaged his vehicle for doing contract work with one Mr.Saravanan, who has worked under the



Government Scheme of PMGSY, for the upgradation of roads. While doing the earth work near by the river, due to rain, the sand kept for his work was washed away and as per instructions of the contractor, the petitioner's driver had done the work, and there is no criminal intent. Further, he stated that the petitioner is no way connected in this case. Therefore, he prays to allow this petition.

4.The learned Government Advocate (Crl.side) appearing for the respondent/police was also not in a position to refute the said submissions of the learned counsel for the petitioner.

5.In view thereof, this is a fit case for grant of interim custody of the vehicle. Therefore, the petitioner is entitled for the release of the above said vehicle on the following conditions:-

(i) The order of the Learned Principal District and Sessions Judge, Nagapattinam District, in Crl.M.P.No.1178 of 2022, dated 05.05.2022, is set aside;

(ii) The petitioner will be entitled for return of the Hitachi, bearing Registration No.KA 28 D 3169;

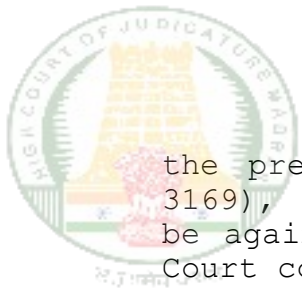
(iii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to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

(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 (Hitachi, bearing Registration No.KA 28 D 3169), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

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6. Accordingly, the Criminal Revision Case is allowed.

Sd/-

Assistant Registrar(CS-III)

//True Copy//

Sub Assistant Registrar

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To

1.The Principal District and Sessions Judge,
Nagapattinam District.

2.The Public Prosecutor, High Court of Madras.

3.The Inspector of Police, Thirukannapuram Police Station,
Nagapattinam District.

+1cc to Ms.M.Rebecca, Advocate, S.R.No.35872

Cr1.R.C.No.727 of 2022

AK-II(CO)
SB(05/07/2022)