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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 17.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.747 of 2022

Anbumani

... Petitioner/Owner of the Vehicle

Versus

State rep. by the Sub-Inspector of Police,
Thiruvenkadu Police Station,
Nagapattinam District.

... Respondent/Complainant

Prayer: Criminal Revision Case filed under Section 397 and 401 Cr.P.C, to call for the records on the file of the learned Principal District and Sessions Judge, Nagapattinam, Nagapattinam District in Crl.M.P.No.847 of 2022, dated 08.04.2022 and set aside the order, dated 08.04.2022.

For Petitioner : Mr.E.Kannadasan

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

O R D E R

The vehicle belonging to the petitioner was seized in the investigation of Crime No.310 of 2020 for an alleged offence of illegal transportation of river sand. The petitioner filed an application for return of vehicle under Sections 451 and 457 of Code of Criminal Procedure which was rejected by the Trial Court on the ground that the very same vehicle was involved in a offence of an illegal transportation of one unit of river sand and if the vehicle was returned with a condition that the petitioner should not indulge in similar type of offence, the vehicle may again involve in the same offence.

2. The learned Counsel appearing on behalf of the petitioner would submit that in the case, the petitioner was not at all an accused and as a matter of fact, unauthorisedly, his driver had indulged in illegal transportation of river sand which resulted in the seizure of the vehicle and registering of the case and therefore, he would pray for interim custody of the vehicle.



3. Per contra, the learned Government Advocate (Crl. Side) submitted that the vehicle had been used for the purpose of illegal transportation of river sand and the same had been duly seized by the respondent Police in the above said crime number and therefore, the vehicle was rightly refused to be returned by the Trial Court.

4. I have considered the rival submissions made on either side and perused the material records of the case. Though the Trial Court as well as the learned Government Advocate are right in considering that the vehicle is seized in illegal transportation of river sand, even then the vehicle cannot be allowed to rot and therefore, a decision has to be taken about the seized vehicle.

5. Therefore, considering the overall facts and circumstances of the case, even though the petitioner is the second offender, the same can be taken care of by imposing an additional condition of depositing of Rs.50,000/- to the credit of Mining Funds of the District Collector which can be utilised for the restoration of the environment. Therefore, since the petitioner is the lawful owner of the vehicle, I am inclined to order release of the vehicle with the following terms:-

(i) The order of the learned Principal District and Sessions Judge, Nagapattinam, Nagapattinam District, in Crl.M.P.No.847 of 2022, dated 08.04.2022, is set aside.

(ii) The petitioner will be entitled for return of the Lorry, bearing Registration No.TN 22 AJ 7077, having Chassis No.UDE550168, Engine No.UDE409859.

(iii) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Judge, 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.



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(vi) 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.

(vii) 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 (Lorry, bearing Registration No.TN 22 AJ 7077, having Chassis No.UDE550168, Engine No.UDE409859), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned;

(viii) Considering this is second offence, the petitioner shall also deposit a sum of Rs.50,000/- to the credit of Mining Funds of the District Collector and it is also made clear that if the petitioner, by this vehicle or by any other vehicle, involves in further offence of similar in nature, the order of return of this vehicle shall stand vacated automatically and the vehicle will be seized and repossessed;

(ix) Since it is seen that the petitioner has to effect transfer of Registration in his name, within four weeks from the date of return of the vehicle, the petitioner shall duly apply and effect the transfer of Registration in his name and produce a copy of such transferred Registration Certificate before the Trial Court.

6. The Criminal Revision Case is allowed accordingly.

Sd/-
Assistant Registrar

//True copy//

Sub Assistant Registrar

grs

To

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

2. The Public Prosecutor,
High Court of Madras.



3. The Sub-Inspector of Police,
Thiruvenkadu Police Station,
Nagapattinam District.

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+1cc to Mr.E.Kannadasan, Advocate SR.No.36696

Cr1.R.C.No.747 of 2022

AJB (CO)

GMV (29/06/2022)