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Crl.R.C.No.811 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.811 of 2022

Rajkumar

... Petitioner

Versus

The State rep. By
The Inspector of Police,
Kariyapattinam Police Station,
Kariyapattinam,
Nagapattinam District.
Crime No.733 of 2020

... Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of Cr.P.C., against order made in Crl.M.P.No.859 of 2022 on the file of the Principal District and Sessions Court, Nagapattinam, dated 13.04.2022.

For Petitioner : Mr.A.Sundaravadhanan

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

ORDER



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This revision is filed aggrieved by the order of the learned Principal District and Sessions Court, Nagapattinam dated 13.04.2022 in Crl.M.P.No.859 of 2022, whereby, the prayer for returning the vehicle viz., Tractor attached with Tipper bearing Registration No.TN 55 AR 2854 has been rejected.

2. Heard the learned counsel for the petitioner and the learned Government Advocate (Crl.Side) for the respondent.

3. The learned Judge has taken note of the case of the prosecution that the vehicle has been used for illegal transportation of Kalavai sand and it was seized by the respondent/Police for having committed the offences punishable under Sections 379 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.

4. The learned counsel appearing on behalf of the petitioner would submit that the petitioner is the owner of the said vehicle. The petitioner is not a named accused in the FIR and the said vehicle was the livelihood



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for the petitioner and his family. Further, he stated that the petitioner is no way connected in this case. Therefore, he prays to allow this petition.

5. Per contra, the learned Government Advocate (Crl. Side) submitted that the petitioner's vehicle was used for transporting one kalavai sand illegally and therefore, the vehicle was rightly refused to be returned by the Trial Court.

6. 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 there is an illegal transportation of sand, even then the vehicle cannot be allowed to rot and therefore, a decision has to be taken about the seized vehicle.

7. 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, dated 13.04.2022 in Crl.M.P.No.859 of 2022 is set aside.

(ii) The petitioner will be entitled for return of the said vehicle viz.,



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Tractor attached with Tipper bearing Registration No.TN 55 AR 2854.

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(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 is not entitled to auction or sell the vehicle and use the vehicle only for the commercial use, but, to maintain the vehicle in the same condition so that it can be produced before the trial Court during trial. 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 police 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.

(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.



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(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 (viz., Tractor attached with Tipper bearing Registration No.TN 55 AR 2854), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned;

8. The Criminal Revision Case is allowed accordingly.

30.06.2022

Index : Yes / No

Speaking/Non-speaking order

ssn

D.BHARATHA CHAKRAVARTHY, J.,

ssn



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To

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

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28.06.2022