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Crl.R.C.No.803 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2022

CORAM :

THE HON'BLE MR.JUSTICE D.BHARATHA CHAKRAVARTHY

Crl.R.C.No.803 of 2022

Nandhakumar

... Petitioner

Versus

State, rep.by the
Inspector of Police,
Thittachari Police Station,
Nagapattinam District.

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 read with 401 Code of Criminal Procedure, to set aside the order passed by the Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.1486 of 2022 dated 15.06.2022.

For Petitioner : Mr.J.Jawahar

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

ORDER

This Criminal Revision is filed aggrieved by the order dated 15.06.2022 passed by the learned Principal District & Sessions Judge, Nagapattinam in Crl.M.P.No.1486 of 2022, whereby the prayer for



Crl.R.C.No.803 of 2022

returning the vehicle viz., Eicher Tractor attached with tipper bearing
Registration No.TN 49 AH 1807 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 river sand near Thirumalairajan riverbed, and it was seized by the respondent/Police for having committed the offences punishable under Sections 379 & 430 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 is the owner of the said vehicle and the said vehicle was the livelihood 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.

4. Per contra, the learned Government Advocate (Crl. Side) submitted that the petitioner's vehicle has been used for illegally



Crl.R.C.No.803 of 2022

transporting 1/4 unit of river sand and therefore, the vehicle was rightly refused to be returned by the Trial Court.

5. 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.

6. Therefore, considering the overall facts and circumstances of the case, even though the petitioner's vehicle was used for transporting 1/4 unit of river sand illegally, the same can be taken care of by imposing an additional condition of depositing of Rs.25,000/- 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 District, in Crl.M.P.No.1486 of 2022 dated 15.06.2022, is



Crl.R.C.No.803 of 2022

set aside;

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(ii) The petitioner will be entitled for return of the vehicle viz., Eicher Tractor attached with tipper bearing Registration No.TN 49 AH 1807;

(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;

(vi) 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;



Crl.R.C.No.803 of 2022

(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 (Eicher Tractor attached with tipper bearing Registration No.TN 49 AH 1807), shall stand automatically vacated, and this vehicle will be again seized by the respondent/police and produce before the Court concerned.

(viii) The petitioner shall also deposit a sum of Rs.25,000/- to the credit of Mining Funds of the District Collector and the same is non-refundable 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.

7. Accordingly, the Criminal Revision Case is allowed.

28.06.2022

Index: Yes / No
Speaking Order : Yes / No
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Crl.R.C.No.803 of 2022

D.BHARATHA CHAKRAVARTHY, J.,

ssn

To

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

Crl.R.C.No.803 of 2022

28.06.2022