



IN THE HIGHCOURT OF JUDICATURE AT MADRAS

Dated : 08.12.2022

CORAM:

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CRL.RC.No.809 of 2021

M. Nithya

.. Petitioner

Vs.

The State by
The Inspector of Police,
Nagore Police Station,
Nagapattinam District

.. Respondent

Prayer: Criminal Revision Case filed under Section 397 read with 401 of the Code of Criminal Procedure to set aside the order dated 22.10.2021 passed in Crl.M.P.No.3192 of 2021 on the file of the District and Sessions Judge, Nagapattinam and direct the respondent police to return the Ashok Leyland Captain Taurus Tipper Lorry bearing Registration No.TN 19 AJ 6658 to the petitioner.

For Petitioner

: Mr.S. Vinoth Kumar

For Respondent

: Mr. V. Meganathan
Govt. Advocate (crl.side)



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ORDER

This Criminal Revision Case has been filed against the dismissal of the petition filed by the petitioner in CrI.M.P.No.3192 of 2021, dated 22.10.2021 by the learned District and Sessions Judge, Nagapattinam.

2. The learned counsel for the petitioner submitted that the petitioner is the owner of the Tipper Lorry bearing Registration No.TN 19 AJ 6658 ; the respondent police has registered a case against the accused persons in Crime No.1537 of 2020 for the offences punishable under sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act; pursuant to which, the petitioner's vehicle was seized by the respondent police on 04.09.2020 on the allegation of illegal transportation of sand and from that date onwards the vehicle has been kept idle under the custody of the respondent police.

3. He would further submit that the allegation against the petitioner is that the petitioner is the owner of the vehicle and he used the vehicle for illegally transporting 6 units of 'savudu man' without valid licence and permit. Though the petitioner obtained proper trip sheet from the licensee



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of the quarry for transporting savudu sand, the respondent police without considering the same, registered a case against the petitioner (a copy of trip sheet is filed in the typed set of papers). The trial court, failed to consider the above fact and rejected the petitioner's plea and thereby dismissed the petition to release vehicle, which is against the fact and law.

4. It is his further submission that the vehicle is now under the custody of the respondent police since 4.9.2020 for a long period, due to which, the vehicle is being exposed to all weather conditions, thereby, the value of the vehicle got depreciated drastically. Thus, he pleaded to set aside the impugned order and prayed to return the vehicle to the petitioner, who is the absolute owner of the vehicle and for that he is ready to abide by any condition that may be imposed on him.

5. The learned Govt. Advocate (crl.side), on instructions, submitted that the petitioner is the 4th accused in Crime No.1537 of 2020, wherein, he is alleged to have transported 6 units of savudu man illegally in his Tipper Lorry. He would further submit that the vehicle is not involved in any previous case of similar in nature.



7. A Perusal of records would reveal that the respondent police registered a case against this petitioner and others in crime No.1537 of 2020. The petitioner herein, who is the owner of the offending vehicle, is the 4th accused. The allegation against him is that without valid permit, he transported 6 units of savudu sand. The learned counsel for the petitioner disputed the said fact by stating that the petitioner has got valid permission by obtaining proper trip sheet from the licensee of the quarry for transporting the savudu sand. To prove the same, he has also filed a copy of the trip sheet dated 04.09.2020 in the typed set. In such circumstances, this court is of the view that the petitioner is not involved in any crime of illegal transportation of savudu sand.

8. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** (cited supra), the Hon'ble Supreme Court in paragraph No.17 has held as follows:



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"In our view, whatever be the situation, it is of no use to keep such-seized vehicles at the police stations for a long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles."

9. Considering the above decision coupled with the facts that the trip sheet has been issued to the petitioner on 4.9.2020, i.e, on the date of alleged crime and the the vehicle has been kept idle under police custody from 4.9.2020 onwards and the vehicle is not involved in any other previous case of similar type, I am inclined to grant interim custody of the vehicle to the owner of the vehicle by imposing stringent conditions.

10. Accordingly, the respondent is directed to release the vehicle in question to the petitioner on compliance of the below mentioned conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing the R.C.Book and other relevant records;*
- ii. the petitioner shall not alienate or encumber the*



vehicle in any manner;

iii. the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees one lakh only) to the satisfaction of the District and Sessions Judge, Nagapattinam.

iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.

v. the petitioner shall take photograph of the vehicle; and ;

vi. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

11. It is made clear that the handing over of the vehicle to the petitioner for interim custody shall not stand in the way of initiating confiscation proceedings.

12. In the result, the impugned order is hereby set aside and the Criminal Revision Case is **allowed** with the above terms.

08.12.2022

msr



Index:yes/no

Internet:yes/no

To

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

*2.The Inspector of Police,
Nagore Police Station,
Nagapattinam District.*

*3.The Public Prosecutor,
High Court, Madras.*

V. SIVAGNANAM, J.

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