



Crl.R.C.No.1532 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 12.12.2022

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1532 of 2022

Mrs. Ambika

... Petitioner

Vs.

The State, Rep. by
The Inspector of Police,
Keelapalur Police Station,
Keelapalur , Ariyalur District,
(Cr.No.169 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 r/w.401 of Cr.P.C. to call for the records in Crl.M.P.No.3230 of 2022 on the file of the Principal Sessions Judge, Ariyalur, Sessions Division Ariyalur and to set-aside the same, consequently direct the respondent police to return the vehicle namely Ashok Leyland Goods carrier vehicle XP yellow color bearing registration No.TN 21 AL 7894 (Tipper Lorry) to the petitioner.



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For Petitioner : Mr. N. Elayaraja
For Respondent : Mr.V. Meganathan
Gov. Advocate (Crl.Side)

ORDER

Challenging the order of dismissal passed by the Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur in Crl.M.P.No.3230 of 2022, dated 17.10.2022 to return the vehicle, the present Revision has been filed.

2. The respondent police registered a case in Crime No.169 of 2022 for the offence under Section 379 of IPC and Section 21(1)(a)(b) of Mines and Minerals (Development and Regulation) Act 1957.

3. Totally, there are 3 accused in this case and the petitioner is arrayed as A3. The allegation in the complaint was that as per the instruction of A2, A1 had illegally transported two units of river sand by using a Ashok Leyland Lorry bearing Registration No.TN 21 AL 7894, belongs to the petitioner.



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4. The petitioner, who is claiming to be the owner of the said lorry, filed an application for return of vehicle and the trial Court dismissed the application holding that already the same vehicle is involved in Crime No.24 of 2022 for the very same nature of the offence and if the property is returned to the petitioner, she may use the said vehicle to commit the same kind of offence in future. Challenging the same, the present revision petition has been filed.

5. The learned counsel for the petitioner submitted that though the petitioner has got permission from the concerned authorities to take red soil from 24.09.2021 to 23.08.2022, the previous case in Crime No.24 of 2022 has been falsely registered. In that case, while granting anticipatory bail in Crl.O.P.No.3001 of 2022, this Court observed that the petitioner has got permission to take red soil. The Trial Court, without considering the same, erroneously dismissed the petition. The vehicle is kept in open space and in the exposure of sun and rain and thereby, it would get severely damaged.



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6. The learned counsel appearing for the petitioner further submitted that the petitioner will not alienate the property and he will produce the vehicle as and when required before the Court below.

7. The learned Government Advocate (Crl.side) submitted that the vehicle is already involved in the similar type of offence in Crime No.24 of 2022 and if the vehicle is returned, it may be used to commit the same type of offences in future.

8. I have considered the submissions made on either side and perused the materials available on records carefully.

9. On verification of facts, it reveals that the present case has been registered against the petitioner/A3 and others in Crime No.169 of 2022 for the offences under Section 379 r/w. 21(1),(a),(b) of Mines & Minerals (Development Regulation) Act 1957,in which, the Ashok Leyland Goods Carrier vehicle XP yellow color bearing registration No.TN 21 AL 7894, belongs to the petitioner/A3, has been seized. The previous case in Crime

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No.24 of 2022 for the offence under Section 379 r/w. 21(1),(a),(b) of Mines & Minerals (Development Regulation) Act 1957 is with regard to illegal transportation of red soil, which is also disputed by the petitioner stating that he has taken the red soil with valid permit, not illegally. So far as this case is concerned this is the first case for transportation of river sand.

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

"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."

11. Considering the nature of the offence involved and also considering



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the dictum of the Supreme Court cited supra, I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

12. Accordingly, this Criminal Revision Petition is allowed and the impugned order passed by the Court below is set aside and the court below is directed to return the vehicle bearing Registration No.TN21-AL-7894 Ashok Leyland Goods Carrier Vehicle (Yellow color) for temporary custody to the petitioner, on complying the following 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.2,00,000/- (Rupees Two Lakhs only) before the Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur;
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future,



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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.

13. Accordingly, the Criminal Revision is disposed of.

12.12.2022

mrp

To

1. The Principal Sessions Judge, Ariyalur Sessions Division, Ariyalur
2. The Inspector of Police,
Keelapalur Police Station,
Keelapalur,
Ariyalur District.
3. The Public Prosecutor,
High Court of Madras, Chennai.

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V.SIVAGNANAM, J.,

mrp

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