



Crl.R.C.No.1591 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.1591 of 2022

Sarojini

.. Petitioner

/versus/

State rep by its
The Inspector of Police,
Voimedu Police Station,
Voimedu, Vedaranyam Taluk,
Nagapattinam District.
(Crime No.166/2022)

.. Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to call for the records relating to the proceedings in Crl.M.P.No.3767 of 2022 by the Principal District and Sessions Judge, (FAC), Nagapattinam, Nagapattinam District dated 14.11.2022 in connection with the FIR in Crime No.166 of 2022 on the file of the Inspector of Police, Voimedu Police Station, Voimedu, Nagapattinam District set aside the same and pass an order to return the property to the petitioner.

For petitioner ... Mr.R.Muruga Bharathi

For Respondent ... Mr.E.Pratap, GA (crl.side)



ORDER

WEB COPY Challenging the order, dismissing the petitioner's petition filed under Sections 451 and 457 of Cr.P.C., passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.3767/2022, dated 14.11.2022 to return the vehicle, the present Criminal Revision Case has been filed.

2. The respondent police seized the Tractor along with tipper belonging to the petitioner on the allegation that the vehicle is indulged by the accused person to take thurvai sand from the vacant land of one Saminathan. Pursuant to which, the respondent police registered a case in Crime No.166 of 2022 for the offence under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act. The petitioner, who is the owner of the above said vehicle, filed a petition before the trial Court for returning his vehicle bearing Reg.No.TN 51 AH 8494. The trial Court dismissed the petition and passed the impugned order on the ground that the vehicle has been involved in illegal transportation of one unit of sand.



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3. The learned counsel appearing for the petitioner contended that the petitioner is the owner of the vehicle viz., tractor with tipper, which is in the custody of the police for a long period and the petitioner is not involved in any previous case and if the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated.

4. He further submitted that the petitioner will give an undertaking that he will not alienate the property and he will produce the vehicle as and when required before the Court below. Thus, he seeks to an order for returning the vehicle.

5. When the matter is taken up for hearing, the learned Government Advocate (Crl.Side) submitted that the respondent police registered a case against the petitioner on 21.09.2022 in Crime No.166 of 2022 under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act and they have seized the vehicle viz., tractor bearing Reg.No.TN 51 AH 8494 along with tipper (not registered), while the petitioner transported one unit of thurvai sand from the vacant land. The learned Government Advocate (Crl.Side) conceded that the vehicle has not involved in any similar type of previous cases.



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6. Heard both sides and perused the materials available on record.

7. On perused of the First Information Report, it is seen that on 21.09.2022, at 08.00 hours, the Sub Inspector of Voimedu Police Station, got information that in the village viz., Ayakkaranpulam-Sethee Village, a tractor with load of one unit thurvai sand came out from the land without any permission for transporting the sand. Further, it is mentioned that the land is owned by Saminathan, S/o Subbiah Thevar in patta No.196. Since there is no permit for taking sand from the land, they arrested the accused and seized the vehicle. Now the petitioner seeks to return of vehicle, since the vehicle was stationed in an open yard and subject to natural calamities and unconditional weather conditions.

8. In ***Sunderbhai Ambalal Desai v. State of Gujarat*** reported in ***[(2002)10 SCC 283]***, the Hon'ble Supeme Court in paragraph No.17 had held as follows:-

“17.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



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required at any point of time. This can be done pending hearing of applications for return of such vehicles."

9. Considering the nature of the offence and the vehicle has not involved in any similar type of cases and only one unit of thurvai sand from the vacant land has been transported from the vacant land and also in view of the principle of law laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai v. State of Gujarat reported in [(2002)10 SCC 283]*** (cited supra), this Court is inclined to return the vehicle to temporary custody of the petitioner on certain conditions:-

10. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle, tractor along with tipper bearing Reg.No.TN 51 AH 8494 (tipper not registered) to temporary custody of 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.50,00,000/- (Rupees fifty lakhs only)
before the Principal District and Sessions Judge,
Fast Track Court, 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. Accordingly, the Criminal Revision Case is allowed.

21.12.2022

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Index:yes/no

To:

1.The Principal District and Sessions Judge,
Fast Track Court, Nagapattinam.

2.The Inspector of Police, Voimedu Police Station,
Voimedu, Vedaranyam Taluk,
Nagapattinam District.

3.The Public Prosecutor, High Court, Madras.

V.SIVAGNANAM, J.



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