



Crl.R.C.No.1632 of 20__

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.12.2022

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.1632 of 2022

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.. Petitioner

/versus/

State rep.by
The State House Officer,
Gingee Police Station,
Villupuram District.
(Crime No.471 of 2022)

.. Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w 401 of Cr.P.C., to set aside the order dated 15.11.2022 made in Crl.M.P.No.4811 of 2022 on the file of the Judicial Magistrate, Gingee dismissing the petition to return the vehicle of namely, Tractor & Tipper (Sonalika) bearing Registration No.TN-16-W-9087 to the petitioner herein.

For petitioner ... Mr.V.R.Appaswamee

For Respondent ... Mr.V. Meganathan, GA (crl.side)

ORDER

Challenging the order, dismissing the petitioner's petition filed under Section 451 of Cr.P.C., passed by the learned Judicial Magistrate, Gingee in Crl.M.P.No.4811 of 2022 in Crime No.471 of 2022 dated 15.11.2022 to return the vehicle, the present Criminal Revision Case has been filed.



2. The respondent police registered a case against the petitioner in Crime No.471 of 2022 for the offence under Section 379 of IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act.

3. The allegation of the prosecution is that on 29.09.2022, the petitioner had illegally transported ½ unit of river sand in his vehicle viz., Tractor & Tipper bearing Reg.No.TN-16-W-9087.

4. The petitioner, who is claiming to be the owner of the said vehicle, filed a petition seeking interim custody of the vehicle. The learned Magistrate, without considering the nature of the case, dismissed the petition. Challenging the same, the present Criminal Revision Case has been filed.

5. The learned counsel appearing for the petitioner submitted that 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. 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 order for returning the vehicle.



6. The learned Government Advocate (Crl.Side) submitted that the respondent police registered a case against the petitioner on 29.09.2022 at about 22.00 hours, this petitioner had illegally transported ½ unit of river sand and unloaded at Singavaram Village before his house. On information, they went to the spot and seized the tractor along with tipper and registered the case. The learned Government Advocate (Crl.Side) conceded that the vehicle is not involved in any similar type of previous cases.

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

8. On perusal of records, the facts revealed that the respondent police has registered the case against the petitioner in Crime No. 471 of 2022 under Section 379 IPC r/w 21(1) of Mines and Minerals (Development and Regulation) Act, in which, the tractor and tipper bearing Reg.No.TN 16 W-9087 belongs to the petitioner has been seized.

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

10. Considering the nature of the offence and the vehicle has not involved in any similar type of cases and only ½ unit of river sand was unloaded before the accused's house and also in view of the principle 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 with certain conditions:-

11. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle viz., Tractor and Tipper bearing Reg.No. TN16 W 9087 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;



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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.2,50,000/- (Rupees two lakhs and fifty thousand only) before the Judicial Magistrate, Gingee;

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.

22.12.2022

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Index:yes/no

To:

1.The Judicial Magistrate, Gingee.

2.The State House Officer, Gingee Police Station,
Villupuram District.

3.The Public Prosecutor, High Court, Madras.



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V.SIVAGNANAM, J.

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