



CRL.R.C.(MD).No.543 of 2022

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

RESERVED ON : 08.07.2022

PRONOUNCED ON : 12.08.2022

CORAM

THE HONOURABLE MR.JUSTICE K.MURALI SHANKAR

CRL.R.C.(MD)No.543 of 2022

Krishnamoorthy

: Petitioner

Vs.

1.The Inspector of Police,
M.Reddiyapatti Police Station,
Virudhunagar District.
Crime No.48 of 2022.

2.Sunitha

: Respondents

(second respondent impleaded as per of of this Court,
dated 28.06.2022 in CrI.M.P(MD)No.7063 of 2022)

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 Cr.P.C, to call for the records of the order dated 09.06.2022 made in Cr.M.P.No. 2753 of 2022 on the file of the learned Judicial Magistrate, Aruppukottai and set aside the same and allow the Criminal Revision Petition.

For Petitioner : Mr.T.Veerakumar,

For Respondents : Mr.S.Manikandan,
Government Advocate (Criminal Side), for R1.

: Mr.J.Sankarapandian, for R2.



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ORDER

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The Criminal Revision Case is directed against the order passed in Crl.M.P.No.2753 of 2022, dated 09.06.2022, on the file of the Court of Judicial Magistrate, Aruppukottai, in dismissing the petition filed under Sections 457 r/w 451 of the Code of Criminal Procedure.

2. The petitioner is the third accused and on basis of the complaint lodged by the second respondent, FIR came to be registered in Crime No.48 of 2022, dated 16.05.2022 under Sections 429 IPC, 11(1)(d) and 11(1)(e) of Prevention of Cruelty to Animals Act, 1960.

3. The case of the prosecution is that on 16.05.2022, the accused including the petitioner have illegally transported 36 Cows in a vehicle bearing Registration No.TN-34-U-6636 and that the said vehicle was intercepted and 36 Cows were recovered.

4. It is not in dispute that after recovery, the 36 Cows were entrusted with the second respondent Sai Baba Memorial Animal Rescue Trust at Kumarapuram, Virudhunagar District. The petitioner claiming to be the owner of 36



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Cows, has filed a petition in Cr.M.P.No.2753 of 2022 under Section 457 r/w 451 Cr.P.C, seeking orders for returning of 36 Cows to him. The learned Judicial Magistrate after conducting enquiry, has passed the impugned order, dated 09.06.2022, dismissing the petition. Aggrieved by the order of dismissal, the third accused Krishnamoorthy has now come forward with the present Criminal Revision.

5. The petitioner's case is that he is doing agricultural cultivation in his village and is having 36 cattles for his livelihood; that there existed drought situation and water scarcity in his village and hence, he has decided to shift his entire live stocks to another water sourced place in Virudhunagar District; that he forwarded and loaded the cattles in a container bearing Registration No.TN-34-U-6636, on 15.05.2022 at about 09.00 am and when the cattles were passing nearby M.Reddiyapatti, the second respondent stopped the vehicle by alleging that he was sending the said live stocks for slaughtering in Kerala State and gave a complant and on that basis, FIR came to be registered and 36 Cows were seized and produced before the Kosalai at Virudhunagar; that the petitioner is the agricultural coolie and he is depending only upon the income from his cattles to run his family, that he undertakes that he never sell or abandon the cattles at any



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point of time and he is ready to abide by the conditions to be imposed by this Court and that therefore, 36 Cows which were recovered by the first respondent Police may be returned to the petitioner on interim custody.

6. The first respondent Police and the second respondent/defacto complainant have filed separate counter-affidavits raising serious objections for returning the Cows to the petitioner.

7. The first respondent has taken a stand that the petitioner had illegally transported the Cows for the purpose of slaughtering and he has not used the Cows for agricultural purposes and that he is not doing any agricultural work. It is the further case of the prosecution that the petitioner has not followed the prescribed rules namely, Rule 46 to 63 of Transport of Animals Rules and that if the interim custody is granted to the petitioner, he may once again commit the similar offence.

8. The second respondent in her counter affidavit, has stated that the petitioner was carrying 36 Cows in a container by tying the legs of all the cattle in a cruel manner and also used green chillies in the eyes of Cows for the



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purpose of making the Cows in a standing position for a long travel; that a Veterinary Officer has visited the place of the second respondent and made a medical checkup on the Cows and found so many injuries on it; that a cow was in pregnant stage and most of the Cows are aged below 10 years only and that the petitioner has not followed the procedures contemplated under Tamil Nadu Animal Preservation Act and the Transport of Animal Rules.

9. The learned counsel for the petitioner has relied on a judgment of this Court in **Nazeer Vs. State rep.by The Inspector of Police, Chithode Police Station, Erode and others** reported in (2017) 4 MLJ (Crl) 646, wherein, a learned Judge of this Court has permitted the petitioner therein to retain the custody of Buffaloes by imposing certain conditions and directed the petitioner to follow the rules, if he intends to transport the Buffaloes in future by road or any form of transport.

10. As rightly pointed out by the learned Judicial Magistrate, in two other decisions of this Court in **Shakeer Ali Vs. State rep.by its The Inspector of Police, Karumathampatty Police Station, Coimbatore District and Ginjala Naga Appala Raju Vs. State Rep. by its The Inspector of Police, Avinashi**



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Police Station, Thiruppur District, in Crl.R.C.No.965 of 2021 and Crl.R.C.No. 73 of 2022, dated 21.01.2022 and 02.02.2022 respectively, another learned Judge of this Court has held that the petitioners therein had handed over the cattles to the transporter for transporting the same from Krishnagiri to his cattle farm in Pollachi in the first case and from Thanjavur to his cattle farm in Pollachi. Admittedly, in both the above cases, the cattles were not transported for slaughtering and hence, the cattles were ordered to be returned to the petitioners/owners of the cattles on interim custody.

11. At this juncture, it is necessary to refer the judgment of this Court in **Naseerulah Vs. State by : Sub-Inspector of Police, Coonoor and another in Crl.R.C.No.777 of 2010, dated 14.03.2013.**

“12. In this connection, [Section 429](#) of I.P.C. also can be taken note of. In this case, [Section 429](#) of I.P.C. provides punishment for mischief by killing or maiming cattle, etc., of any value or any animal of the value of fifty rupees with imprisonment for a term which may extend to two years, or with fine, or with both. The said section is a cognizable one. If we read [Section 429](#) of I.P.C., the word used in the Section is even maiming the cattle and it is also included Cow or Ox. Here we come across in one vehicle more than 20 cows or buffaloes were transported and in that process, namely



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the people who has taken it in the vehicle or during the transport, one animal is being attacked by another which shows only the inhumane attitude and inducement of the said person transporting the animals. Therefore, even the maiming or injury caused because of the illegal transportation therefore, the owner can be hauled up. Unfortunately, when all these provisions are there, we find that these people transported these animals to butchery without following the rules and regulations. Taking into consideration that the prices are different from State to State. In fact, most of the cases, cattle are being transported continuously for a period of 48 hours crossing inter-State border without even providing fodder or water. They are mostly taken only for slaughtering house in Kerala. They are transported in complete violation of the legal provisions, that too, right under the nose of the authority who is duty bound to implement such laws. The object of the Prevention of Cruelty to [Animals Act, 1960](#), is only to prevent animals from being put to cruelty and that it is imperative to implement both these Acts by the authorities concerned. I only fervently hope that hereafter these laws which are provided for preventing cruelty to animals will be implemented in the strict sense. The lower Courts in Tamil Nadu shall take note of these provisions and also see that as to how the offenders should be punished properly. Therefore, the finding of the lower Court that the petitioner is not entitled for return of the cattle is well founded and correct. At the same time, another painful thing has happened in this case and that has also to be taken note of. Subsequent to the cattle being handed over to the second respondent, they have maintained it



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for six months and during that period 21 cattle also died. The post mortem certificate have been produced. In all the cases, they have sustained injuries during illegal transportation. In fact, in one case, gangrene has set in and it has been operated from spreading further and the injuries of the nature sustained only during illegal transportation was the cause of the death. Here is the fittest case where Court has to come to the rescue of the animals and prevent cruelty meted out to the poor animals and the watchful thing of society which are taking care of the animals should be encouraged to stop this offence. Stringent action should be taken as against those who violates the laws in future. Even the vehicles which are used should be dealt with under the [Motor Vehicles Act](#) concerned and punishment has to be imposed.”

12. It is also necessary to refer the judgment of the Hon'ble Apex Court in **Raguramsharma and another Vs. C.Thulsi and another (Crl.A.No.230 of 2020)**, dated **05.02.2020**, wherein the Hon'ble Supreme Court has allowed the appeal and thereby setting aside the order granting interim custody of the cattles seized in Crime No.114 of 2019 on the file of the Archirapakkam Police Station and the relevant passages are extracted hereunder :

“Ms. Sonia Mathur, learned Senior Counsel invited our attention to Rule 56 of the Transport of Animal Rules, 1978, which is to the following effect:



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Rule 56. When cattle are to be transported by goods vehicle the following precautions are to be taken namely:

(a) Specially fitted goods vehicles with a special type of tail board and padding ground the sides should be used.

(b) Ordinary goods vehicles shall be provided with anti-slipping material, such as coir matting or wooden board on the floor and the superstructure, if law, should be raised.

(c) no goods vehicle shall carry more than six cattle.

(d) each goods vehicle shall be provided with one attendant.

(e) while transporting, the cattle, the goods vehicle shall not be loaded with any other merchandise; and

(f) to prevent cattle being frightened or injured, they should preferably, face the engine.

Thus, a container or a vehicle could not have carried more than six cattle but as the facts indicate, the number of animals which were transported was 37. The governing norms and principles were thus violated. It does not appear to be a single or a solitary incident. In subsequent FIR No.207 dated 04.09.2019, as against permissible norm of six cattle, the number of animals which were being transported was 47. The fact that this had adverse impact on the health of cattle is also clear inasmuch as in the present case, one buffalo died while being transported and in the subsequent case, six animals lost their lives.”



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13. In the case on hand also, 36 Cows were transported in a single container and the Cows were kept jam-packed with a rope fastened through their nose.

14. It is not the case of the petitioner that he had taken a certificate from a qualified Veterinary Surgeon that the animals are fit to travel and it is also not his case that the consignment in dispute, bears a label showing the name and address of the consignor and the consignee.

15. The learned counsel for the second respondent would submit that a Veterinary Doctor had visited the place of the second respondent and made a medical checkup and found so many injuries on the Cows and that it was also informed by him that a Cow was in pregnant stage and most of Cows are aged below 10 years only.

16. As rightly contended by the learned Government Advocate (Criminal Side) and the learned counsel for the second respondent, though the petitioner has alleged that he was transporting Cows from his native village to another



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village, having water sources, he has not elaborated anything further. The petitioner has not furnished any particulars about his village where there existed drought and water scarcity and the proposed village where the Cows were meant to be transported, which is having water sources.

17. The main contention of the second respondent as well as the first respondent is that the said Cows were allegedly transported for slaughtering purposes in Kerala and that the petitioner has not shown that the Cows are aged more than 10 years and he had necessary permission to carry the cattles for slaughtering purposes.

18. Considering the facts and circumstances of the case and also the fact that 36 Cows were transported in a single container and the way in which, they were kept jam-packed and also taking note of the facts that there was no water or food for the cattles during transportation, but are having green chillies for placing in the eyes of the Cows so as to make them stand for long travel and also the injuries suffered by some of the Cows and most of them are aged below 10 years and also the fact that the petitioner has not shown that he had taken the Cows for agricultural purposes, this Court is of the view that the petitioner is



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prima facie guilty of causing cruelty to the animals and as such, the impugned order, dismissing the petition cannot be found fault with.

19. In case if the petitioner is finally found to be not guilty, then the issue of custody of the cattles will be dealt with in accordance with the concerned Rules and Regulations, but the petitioner is definitely not entitled to interim custody of the cattles. Hence, this Court is also not inclined to order returning of the Cows to the petitioner at this point of time.

20. In the result, this Criminal Revision is dismissed.

12.08.2022.

Index : Yes/No
Internet: Yes/No
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NOTE: In view of the present lock down owing to COVID-19 pandemic, a web copy of the order may be utilized for official purposes, but, ensuring that the copy of the order that is presented is the correct copy, shall be the responsibility of the advocate/litigant concerned.



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To

- 1.The Inspector of Police,
M.Reddiyapatti Police Station,
Virudhunagar District.
- 2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.
- 3.The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR, J.

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