



Crl.R.C.No.35 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.35 of 2023

Madan
Petitioner

...

Vs.

State rep. by the Inspector of Police,
Kaveripattinam Police Station,
Krishnagiri District.
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, 1973 to call for the records on the file of the learned Principal Sessions Judge, Krishnagiri District in Crl.M.P.No.2408/2022 dated 19.10.2022 and set aside the order.

For Petitioner : Mr.R.Kannadasan

For Respondent : Mr.V.Meganathan, Govt.Advocate
(Crl. Side)



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ORDER

This Criminal Revision Petition has been filed to set aside the order dated 19.10.2022 passed in CMP No.2408/2022 by the learned Principal Sessions Judge, Krishnagiri and direct the respondent to release the Tipper lorry bearing registration No. TN 24 AW 0274 and to return to the petitioner.

2. It is the case of the prosecution that on 19.03.2022 at about 2.00 a.m., while the Assistant Geologist, Department of Geology and Mining, Krishnagiri District along with their officials were conducting routine vehicle check-up to prevent sand theft, they intercepted a mini Tipper lorry bearing registration No.TN-24-AW-0274 at Varatampatti near National School and found that 2 units of gravel sand was transported in the above said lorry and during search, the driver of the Tipper lorry escaped from the scene of occurrence. Therefore, a case in Crime No.143/2022 was registered under Section 379 of Indian Penal Code, and the vehicle was seized along with



3. The learned counsel for the petitioner submitted that the petitioner is the owner of mini Tipper lorry bearing registration No.TN 24 AW 0274. He further submitted that the petitioner filed a petition in Crl.M.P.No. 2408/2022 before the Trial Court to return the vehicle to him, however, it was dismissed, vide order dated 02.01.2023, on the ground that already, one previous case, similar in nature, is pending against the petitioner in Crime No.720/2021 and if the vehicle is handed over to him as interim custody, he may commit similar type of offence. He further submitted that the petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the Trial Court. He also submitted that if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle and hence, he prayed to return the vehicle to the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that the the petitioner is the owner of above said Tipper lorry and it was used to



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transport gravel sand illegally and hence it was seized along with two units of gravel sand. He further submitted that, one previous case, similar in nature, is pending against the petitioner in Crime No.720/2021 and hence, he opposed to return the vehicle to him.

5. Heard the learned counsel appearing for the petitioner and the respondent and I have perused the materials on record.

6. A perusal of the records shows that, the respondent police registered a case in Crime No.143 of 2022 for the offence under Section 379 of Indian Penal Code, with regard to sand theft. Further, it reveals from the records that the petitioner is the owner of the Tipper lorry bearing Registration No.TN-24-AW-0274 and it was seized by the respondent police with two units of gravel sand and now, it is under Court custody in C.P.No.36/2022 in Crime No.720/2021. The Trial Court dismissed the petition in Crl.M.P.No.2408 of 2022, filed by the petitioner, on the ground that one previous case, similar in nature, is pending against him and if the



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vehicle is returned to him, he may use it for committing similar type of offence. It is the contention of the learned counsel for the petitioner that the petitioner is ready to give guarantee and security for returning the vehicle and if the vehicle is being kept idle in open space, it would cause damage to the vehicle.

7. At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*** and the relevant portion is extracted hereunder.

Vehicles

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.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle



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*may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. **In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.***

Therefore, as per the ratio laid down by the Hon'ble Apex Court, this Court is of the view that, keeping the vehicle idle in the open space, will diminish its nature and lost its value and no purpose will be served. However, considering the nature of offence, this Court is inclined to allow the Revision Petition with some conditions.

8. Accordingly, this Criminal Original Petition is allowed and the impugned order passed by the Trial Court is set aside. The Trial Court is directed to return the vehicle to the owner of the vehicle on the following conditions.



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- 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, Krishnagiri.**
- 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.

25.01.2023

Index: Yes/No
Internet: Yes/No
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To

1. The Principal Special Judge, Krishnagiri.
2. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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