



Crl.R.C.No.223 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.223 of 2023

Venkatesaperumal
Petitioner

...

Vs.

State rep. by the Inspector of Police,
Kedar Police Station,
Villupuram District.
(Cr.No.109/2022)
Respondents

...

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records of the learned Judicial Magistrate No.II, Villupuram and set aside the order dated 22.09.2022 in Crl.MP No.1502/2022 and order to return the vehicle Ashok Leyland Commet Tipper bearing registration No.TN 52 C 4233, Engine No.RBH 70177Z, Chasis No.MB1CTY6BRRE7993 concerned in Crime No.109/2022 on the file of the respondent to the custody of the petitioner.

For Petitioner : Mr.M.R.Elavarasan

For Respondent : Mr.V.Meganathan



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Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 22.09.2022 in Crl.MP No.1502/2022 passed by the learned Judicial Magistrate No.II, Villupuram and direct the respondent to return the vehicle Ashok Leyland Commet Tipper bearing registration NO.TN 52 C 4233 to the petitioner/owner of vehicle.

2. The case of the prosecution is that, the respondent police registered a case in Crime No.109/2022 for the offences punishable Sections 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act against two persons namely, Sakthivel and Balu, with regard to the transportation of 30 tones black stones, without any valid license, using Ashok Leyland Commet Tipper lorry bearing registration No.TN 52 C 4233 the above vehicle was seized.

3. The petitioner, who is the owner of Ashok Leyland Commet Tipper



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lorry bearing registration No.TN 52 C 4233, filed a petition in Crl.M.P.No.1502/2022 to return the vehicle to him and it was dismissed by the Trial Court, vide order dated 22.09.2022. Aggrieved over the same, this Criminal Revision Case has been filed.

4. The learned counsel for the petitioner submitted that, the petitioner is not an accused in the above case and he had no knowledge about the alleged transportation of black stones by his driver. He further submitted that, the vehicle has been kept idle from the date of seizure without any useful purpose and the vehicle is the only source of income to the petitioner and he 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. Hence, he prayed to return the vehicle to the petitioner.

5. The learned Government Advocate (Crl.Side) submitted that, the petitioner is the owner of the above vehicle and since the above said vehicle



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was used to transport 30 tones of black stones, without any permit or license, it was seized and hence, he objected to return the vehicle to him.

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

7. A perusal of the records shows that, the respondent police registered a case in Crime No.109/2022 for the for the offences punishable Sections 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, with regard to transportation of 30 tonnes of black stones without any valid license. Further, it reveals from the records that the petitioner is not an accused in this case and he is the owner of the Ashok Leyland lorry bearing registration No. TN 52-C-4223 and it was seized by the respondent police. The Trial Court dismissed the petition in Crl.M.P.No.1502/2022, filed by the petitioner, on the ground that the petition, relating to return of vehicle involved in Mines and Minerals theft, is not maintainable before the Magistrate. It is the contention of the learned



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counsel for the petitioner that if the vehicle is being kept idle in open space, it would cause damage to the vehicle and the petitioner is ready to abide by any condition imposed by this Court and also ready to give guarantee and security for returning the vehicle.

8. 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. As such, considering the nature of offence, this Court is inclined to allow the Revision Petition.

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

- i. the petitioner shall prove his ownership of the vehicle by producing



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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.10,00,000/- (Rupees ten lakhs only) before the Judicial Magistrate No.II, Villupuram,
- 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

the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

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Index: Yes/No
Internet: Yes/No
mst

To

1. Judicial Magistrate No.II, Villupuram.



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2. The Inspector of Police, Kedar Police Station,
Villupuram District.

3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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