



Crl.R.C.No.107 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.107 of 2023

Venkatesaperumal

... Petitioner

Vs.

State by: The Inspector of Police,
Kanjapur Police Station,
Villupuram District,
(Crime No.140/2022)
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records of the learned District Munsif cum Judicial Magistrate, Vikravandi and set aside the order dated 30.08.2022 in CMP No.198/2022 and order return of the vehicle, Taaras Lorry bearing Registration No. TN 21 AZ 3687, Engine No.DPH 440491, Chasis No.CPR 239698 concerned in Crime No.140/2022 on the file of the respondent to the custody of the petitioner.

For Petitioner : Mr.M.R.Elavarasan

For Respondent : Mr.C.E.Pratap, Govt. Advocate (Crl.Side)



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ORDER

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This Criminal Revision Petition has been filed to set aside the order dated 30.08.2022 passed in CMP No.198/2022 by the Trial Court and to return the Taaras Lorry bearing Registration No. TN 21 AZ 3687 to the custody of the petitioner.

2. The respondent police registered a case in Crime No.140/2022 for the offences punishable under Sections 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 against two persons viz. Sakthivel and Murugan. The case of the prosecution is that, on 22.04.2022, at about 4.00 a.m. the respondent police along with the officials went to the Quarry belonging to one Kamalakannan, situated at Sithery Village, in order to prevent the theft of sand and black stones. In that place, the above said two persons were found in loading 20 tonnes of black stones in a Ashok Leyland Taaras Lorry bearing Registration No.TN-21-AZ-3687 and on seeing the police, they absconded from the scene of occurrence. Hence, the respondent police registered the case as stated above and seized



the lorry along with black stones.

3. The learned counsel for the petitioner submitted that the petitioner is the owner of Taaras Lorry bearing Registration No.TN-21-AZ-3687. He further submitted that, the petitioner is not an accused in the above said Crime No.140/2022 and without the knowledge of the petitioner, the driver of the vehicle, committed such an offence, using his vehicle. Hence, the petitioner filed a petition in CMP No.198/2022 before the Trial Court to return the vehicle to him, however, it was dismissed, vide order dated 30.08.2022. It is the contention of the learned counsel that, no purpose will be served in keeping the vehicle under the custody of respondent police and if the vehicle is kept idle in the open space for a long time, it would cause damage to the vehicle. He further submitted that the petitioner is ready to abide by any condition imposed by this Court 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.



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4. The learned Government Advocate (Crl.Side) submitted that, the lorry was used to transport the black stones illegally and hence, objected to return the vehicle to the petitioner.

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.140/2022 for the offences punishable under Section 379, 430 IPC and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957 against two persons viz. Sakthivel and Murugan with regard to theft of black stones. Further, it reveals from the records that the petitioner is not an accused in the above case and he is the owner of the Taaras Lorry bearing Registration No.TN-21-AZ-3687 and it was seized by the respondent police with 20 tonnes of black stones. It is the contention of the learned counsel for the petitioner that the petitioner is ready to abide by any conditions imposed by this Court 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 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



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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.

8. It is to be noted that the above said case in Crime No.140/2022 was registered by the respondent police only for violating the permission, granted for taking black stones from the Quarry and in view of the same, the offences punishable under Sections 379 and 430 IPC is added, along with Section 21(1) of Mines and Minerals (Development & Regulation) Act, in the FIR. However, there is no allegation to made out the offence under Section 430 of IPC in the FIR. In such circumstances, this Court is of the view that, as per the ratio laid down by the Hon'ble Apex Court, as stated supra, keeping the vehicle idle in the open space, will diminish its nature and lost its value and no purpose will be served and hence, this Court is inclined to allow the Revision Case.

9. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The respondent police



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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 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.5,00,000/- (Rupees five lakhs only) before the District Munsif cum Judicial Magistrate, Vikravandi
- 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.

23.01.2023

Index: Yes/No
Internet: Yes/No
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To

1. The District Munsif cum Judicial Magistrate, Vikravandi.
2. The Sub Inspector of Police, Kanjanur Police Station,
Villupuram District.
3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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