



Crl.RC No.111 of 2023

Crl.R.C.No.111 of 2023

V.SVAGNANAM, J.

This matter is posted today under the caption " for being mentioned ".

2. The learned counsel for the petitioner has brought to the notice of this Court that in the cause title of the order dated 27.01.2023, passed in Crl.R.C.No.111 of 2023, instead of Crime No.545/2021, it has been erroneously mentioned as Crime No.545/2022. Hence, necessary correction may be carried out.

3. Accepting the above submission of the learned counsel for the petitioner, the Crime Number mentioned at the cause title shall read as "Crime No.545/2021".

4. In other respects, the earlier order dated 27.01.2023 passed in Crl.RC.No.111 of 2023 shall stand unaltered.

23.02.2023

mst

Note: Registry is directed to issue a fresh order copy, after making necessary corrections.



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23.02.2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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DATED: 27.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.111 of 2023

Meenakshi

... Petitioner

Vs.

State by: The Inspector of Police,
Anaikaranchatram Police Station,
Nagapattinam District.
Crime No.545/2022

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records and set aside the order dated 18.11.2022 passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.3766/2022 and to direct the respondent to return the vehicle viz., Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218 to the petitioner in Crime No.545 of 2021, pending on the file of the respondent.

For Petitioner : Mr.K.R.Rameshkumar

For Respondent : Mr.V.Meganathan

Government Advocate (Crl.Side)

ORDER

This Criminal Revision Petition has been filed to set aside the order



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dated 18.11.2022 passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.3766/2022 and to direct the respondent to return the vehicle viz., Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218 to the petitioner.

2. It is the case of the prosecution that on 11.06.2021, at about 4.30 a.m. when the respondent police was on patrol duty at Mathirvellore Kollidam River side, to prevent sand theft, they found that 70 bags of river sand was transported in a Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218 by two persons namely Prabu and Arunkumar. Hence case was registered in Crime No.545/2021 for the offences punishable under Sections 379 and 430 of Indian Penal Code and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957, and the vehicle was seized.

3. The petitioner filed a petition in Crl.M.P.No.3766/2022 to return the vehicle to him. But it was dismissed by the Trial Court, vide order dated 18.11.2022 on the ground that, if the vehicle is released, it will be used for



committing the same offence. Hence, challenging the above said order, the petitioner filed the present Revision case.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218. He further submitted that A1 transported sowdu sand for residential purpose and the Tractor was not used to transport the river sand, illegally and the vehicle is necessary for the petitioner to lead her lively hood and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. He further submitted that the petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also she 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 owner of the Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218 and since the above said vehicle was used to transport the river sand illegally, it was seized along with sand



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and hence, he objected to return the vehicle to him.

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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.545 of 2021 for the offence punishable under Sections 379, 430 of Indian Penal Code and Section 21(1) of Mines and Minerals (Development & Regulation) Act, 1957, with regard to sand theft. Further, it reveals from the records that the petitioner is not an accused in this case and she is the owner of the Tractor attached with Tipper bearing Registration Nos.TN-51 M 6516 and TN-51-M 7218 and it was seized by the respondent police with sand. Now, the vehicle is under the custody of respondent police. The Trial Court dismissed the petition in Crl.M.P.No.3766 of 2022, filed by the petitioner to return the vehicle to her vide order dated 18.11.2022, It is the contention of the learned counsel for the petitioner that the Tractor was not used to transport river sand illegally and A1 transported only sowdu sand for his residential purpose. Further, he



submitted 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.

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 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.

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 and also taking into account the fact that the Tractor is necessary for the petitioner to lead her livelihood, this Court is inclined to allow the Revision Petition.

9. Accordingly, this Criminal Revision Case 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 the R.C.Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any



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manner;

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iii.the petitioner shall execute a bond for a sum of Rs.4,00,000/-

(Rupees four lakhs only) before the Principal District and Sessions Judge, Nagapattinam.

iv.the petitioner shall give an undertaking that she 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.

27.01.2023

Index: Yes/No
Internet: Yes/No
mst

To

1. The Principal District and Sessions Judge, Nagapattinam.

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2. The Inspector of Police, Anaikaranchatram Police Station,
Nagapattinam District.

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3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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