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CrL.R.C.No.130 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:14.02.2023

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.130 OF 2023

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... Petitioner

Vs

The State, represented by the
Sub Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District
Crime No.278 /2022)

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C.,to set aside the order passed in CrL.M.P.No.2305 of 2022 on the file of the Principal District and Sessions Judge, Tiruvannamalai, dated 15.10.2022 and return the custody of the petitioners unnumbered tipper Tractor bearing Regn. No.TN 25 BR 4341 seized by the respondent police in Cr.No.278/2022 to the petitioner.

For Petitioner : Mr.R. Balakrishnan

For Respondent : Mr.V. Meganathan,
GA (CrL.side)



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ORDER

This Criminal Revision case has been filed challenging the order of dismissal dated 15.10.2022 passed by the Principal District and Sessions Judge, Tiruvannamalai in CrI.M.P.No.2305 of 2022 filed under sections 397 r/w.401 of Cr.P.C. seeking interim custody of the vehicle bearing Regn. No.TN 25 BR 4341.

2. The learned counsel for the petitioner contended that the court below, by order dated 15.10.2022, ordered to return the Tractor bearing Regn. No.TN 25 BR 4341, which is seized by the respondent police along with unnumbered tipper in Cr.No.278 of 2022 alleged to have been involved in illegal transportation of 1 unit of sand. The court below rejected the claim with regard to return of unnumbered tipper on the ground that the ownership of such tipper has not been proved. He further contended that the tipper is a locally assembled one and hence it is not registered and it is used only for agricultural purposes, hence, he seeks interim custody of the unnumbered tipper.

3. Further, the learned counsel for the petitioner submitted that no



purpose will be served in keeping the tipper under the custody of respondent police and if the tipper is kept for a long time in the open space, it would cause damage to the same. The petitioner is ready to give appropriate guarantee as well as security for return of tipper and also he will produce the tipper, as and when required either before the respondent police or before the trial court. Hence, he prayed to return the unnumbered tipper and he is ready to obey any condition imposed on him by this Court.

4. The learned Government Advocate (crl.side) for the respondent, on instructions, submitted that on verification, it is found that the tipper is a locally assembled one and hence it is not registered with registration number.

5. I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (crl.side) for the respondent.

6. Perusal of records would reveal that it is seen that the tipper is a locally assembled one used for agricultural purposes, therefore, it may not



have a registration number. Further 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 and the value of the vehicle is diminished and continuing to keep the vehicle in open air would make the vehicle unusable.

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 Leave Petition (Crl.)2745 of 2022 dated 01.10.2002*** and the relevant portion is extracted hereunder.

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



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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 lose its value and no purpose will be served. So considering the nature of the offence and also Tractor bearing Regn. No.TN 25 BR 4341 has been already returned to the petitioner, this court is inclined to return the unnumbered tipper seized by the police while seizing the tractor.

8.Accordingly, this Criminal Revision Case is allowed and the respondent police is directed to return the unnumbered tipper seized along with tractor bearing Regn.No.TN 25 BR 4341 to the owner of the vehicle on the following conditions.

- i. the petitioner shall prove his ownership of the vehicle by producing 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.10,000/-(Rupees



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ten thousand only) before the Principal District and Sessions Judge,
Tiruvannamalai.

- 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.

14.02.2023

msr

Index: yes/no

Internet:yes/no

To

1. The Sub Inspector of Police,
Thanipadi Police Station,
Thiruvannamalai District
2. The Principal District and Sessions Judge, Tiruvannamalai.
3. The Public Prosecutor,
Madras High Court.

V. SIVAGNANAM, J.

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