



Crl.R.C.No.156 of 2023

**IN THE HIGH COURT OF JUDICATURE AT MADRAS**

**DATED: 10.02.2023**

**CORAM**

**THE HONOURABLE MR. JUSTICE V.SIVAGNANAM**

**Crl.Rc.No.156 of 2023**

Arumugam

... Petitioner

Vs.

State rep. by the Inspector of Police,  
Ulundurpet Police Station,  
Kallakurichi District.  
(Cr.No.438/2022)

... Respondent

**PRAYER:** Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to set aside the order passed by the learned Judicial Magistrate No.I, Ulundurpet in C.MP No.5024/2022 dated 26.12.2022 and subsequently, grant custody of vehicle Ashok Leyland Tipper lorry bearing registration No.TN-15-MA-1578 along with JCB Reg.No.TN-15-E-2028 Machine Chassis No.RAJ3DXS4J03123765 to the petitioner.

For Petitioner : Mr.S.Saravanakumar

For Respondent : Mr.V.Meganathan

Government Advocate (Crl.Side)



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### **ORDER**

This Criminal Revision Petition has been filed to set aside the order dated 26.12.2022 in CMP No.5024/2022 passed by the learned Judicial Magistrate No.I, Ulundurpet and direct the respondent to return the vehicle viz., Ashok Leyland Tipper lorry bearing registration No.TN-15-MA-1578 along with JCB Reg.No.TN-15-E-2028 to the petitioner/owner of vehicle.

2. It is the case of the petitioner that, he is the owner of the vehicle, viz., Ashok Leyland Tipper lorry bearing registration No.TN-15-MA-1578 along with JCB Reg.No.TN-15-E-2028. A case in Crime No.438/2022 was registered by the respondent police on 19.09.2022, for the offence punishable under Section 379 of IPC, for transportation of gravel sand, without valid license or permit from the Government and his vehicle was seized by the respondent police. Further, the petitioner filed a petition to return the vehicle and the same was dismissed by the Trial Court. Aggrieved over the same, this Criminal Revision Case has been filed.



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3. The learned counsel for the petitioner submitted that, the petitioner is the owner of the above lorry and JCB and he purchased the vehicles under hypothecation and he has to pay the EMI. He further submitted that the petitioner is not an accused in the above case and his vehicles were falsely implicated in this case and hence, he filed a petition before the Trial Court in Crl.M.P.No.5024/2022 to return the said vehicle, however, the Trial Court has dismissed the above petition and hence, the above order may be set aside and the respondent may be directed to return the vehicle to the interim custody of the petitioner.

4. The learned Government Advocate (Crl.Side) submitted that, the petitioner is the owner of Ashok Leyland Tipper lorry bearing registration No.TN-15-MA-1578 along with JCB Reg.No.TN-15-E-2028 and since the above said vehicle was used to transport gravel sand without any license or permit from the Government, it was seized and hence, he objected to return the vehicle to him.



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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.438/2022 for the offence punishable Section 379 IPC, with regard to transportation of gravel sand 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 Tipper lorry bearing registration No.TN-15-MA-1578 along with JCB Reg.No.TN-15-E-2028 and it was seized by the respondent police and the vehicle is under custody of Court in C.P.No.278/2022. The Trial Court dismissed the petition in Crl.M.P.No.5024/2022, filed by the petitioner, vide order dated 26.12.2022. It is the contention of the learned 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.



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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 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.***



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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 the submission made by the counsel for the petitioner, this Court is inclined to allow the Revision Petition.

8. Accordingly, this Criminal Original Petition is allowed and the impugned order passed by the Trial Court is set aside. The learned Magistrate concerned 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;



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- iii.the petitioner shall execute a bond for a sum of Rs.18,00,000/-  
(Rupees eighteen lakhs only) before the Judicial Magistrate No.I,  
Ulundurpet.
- 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.

**10.02.2023**

Index: Yes/No  
Internet: Yes/No  
mst

**To**

1. Judicial Magistrate No.I, Ulundurpet.
2. The Inspector of Police, Ulundurpet Police Station,  
Kallakurichi District.
- 3.The Public Prosecutor, Madras High Court.

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**V.SIVAGNANAM, J.,**

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