



CrI.R.C.No.275 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2023

CORAM

THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

CrI.R.C.No.275 of 2023

Arokiya Sowrirajan

... Petitioner

/vs/

The Inspector of Police,
Sembanarkoil Police Station,
Nagapattinam District.
(Crime No.368/2022)

... Respondent

PRAYER : Criminal Revision Case has been filed under Section 397 & 401 Cr.P.C., to set aside the order passed in C.M.P.No.4253 of 2022 on the file of the Principal District and Sessions Judge, Nagapattinam, dated 15.12.2022 to return the Ashok Leyland Tipper Lorry bearing Registration No.TN-31 H 7098.

For Petitioner

... Mr.B.Harish
For M/s.K.M.Vijayan Associates

For Respondent

... Mr.V.Meganathan
Government Advocate (Crl.side)

ORDER

This Criminal Revision Case is filed against the order of the learned Principal District and Sessions Judge, Nagapattinam in C.M.P.No.4253 of 2022, dated 15.12.2022.



2. The case of the prosecution is that, the petitioner is the owner of the Tipper Lorry and he is not an accused in the case registered by the police in Crime No. 368 of 2022 for the offence punishable under Section 379 I.P.C., on the allegation that on 28.10.2022, while the respondent police during the vehicle check up found the accused taking 3 units of savudu sand in his Tipper lorry bearing Registration No. TN 31 H 7098. Hence the respondent police seized the vehicle.

3. The learned counsel for the petitioner submitted that the petitioner is the owner of the Tipper Lorry bearing registration No.TN 31 H 7098. He further submitted that he has not committed any offence as alleged by the respondent police and his vehicle was falsely implicated in this case. Though the petitioner was not arrayed as an accused in the FIR, the petitioner was arrested and undergone for the judicial custody for the above offence and later released on bail on 23.11.2022. The Trial Court, without considering the fact dismissed the petition on 30.12.2022 in Crl.M.P.No.3072 of 2022 filed by the petitioner to return the vehicle.



4. The learned counsel further submitted that, no purpose will be served in keeping the vehicle under the custody of respondent police 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 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.

5. The learned Government Advocate (Crl.Side) for the respondent submitted that the petitioner is the owner of the Tipper Lorry bearing registration No. TN 31 H 7098 and it was seized for illegal transport of 3 units of savudu sand. He further submitted that if the vehicle is returned to the petitioner, there are every chance to use it for committing similar type of offence. Hence, he objected to return the vehicle to the custody of the petitioner.



Crl.R.C.No.275 of 2023

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) for the respondent and I have perused the materials on record.

7. On a perusal of the records, it reveals that the petitioner is not the accused in the case registered in Crime No.368 of 2022 and he is the owner of the Tipper lorry bearing Registration No. TN 31 H 7098, which was seized by the respondent police while transporting 3 units of savudu sand. The Trial Court dismissed the petition in Crl.M.P.No.4263 of 2022, filed by the petitioner, on the ground that the petition, relating to return of vehicle involved in Mines and Minerals theft, if the vehicle is released, the possibility of redeployment of the said vehicle for committing the same offence. It is the contention of the learned counsel for the petitioner 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 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.***



9. 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. As such, considering the nature of offence, this Court is inclined to allow the Criminal Revision Case.

10. 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 petitioner, who is the owner of the vehicle on the following conditions:

(i) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the respondent police, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;

(ii) The petitioner shall not alter or alienate the vehicle in any manner;

(iii) The petitioner ***shall execute a bond for a sum of Rs.4,00,000/- (Rupees Four Lakhs only) to the satisfaction of the learned Principal District and Sessions***



CrI.R.C.No.275 of 2023

Judge, Nagapattinam.

(iv)The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;

Index : Yes/No
Internet : Yes/No
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15.02.2023

To

1.The Principal District and Sessions Judge, Nagapattinam

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

3.The Public Prosecutor,
High Court, Madras.

V.SIVAGNANAM ,J.



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Crl.R.C.No.275 of 2023

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Crl.R.C.No.275 of 2023

15.02.2023