



Crl.R.C.No.153 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.153 of 2023

Vengatesh

... Petitioner

Vs.

The State of Tamil Nadu,
represented by the Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
(Cr.No.346 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 and 401 of Cr.P.C. to set aside the order dated 15.12.2022 made in Crl.M.P.No.4126 of 2022 on the file of the Principal District and Sessions Judge, Nagapattinam.

For Petitioner : M/s.S. Sri Ranjini

For Respondent : Mr.V. Meganathan
Gov. Advocate (Crl.Side)



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ORDER

Challenging the order, dismissing the petitioner's application filed under Sections 451 and 457 of Cr.P.C, passed by the Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.4126 of 2022, dated 15.12.2022 to return the vehicle, the present Revision has been filed.

2. The respondent police seized the Tipper Lorry vehicle bearing Registration No.TN61 8728 belonging to the petitioner on the allegation that the vehicle is indulged by the accused persons in illegal sand mining Pursuant to which, the respondent police registered a case in Crime No.346 of 2022 for the offences under Sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act. The petitioner, who is the owner of the abovesaid Tipper vehicle, filed an application before the Trial Court for return of vehicle. The Trial Court dismissed the petition and passed the impugned order on the ground that if the vehicle is released, there is every possibility of redeployment of the vehicle for committing the same offence.



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3. The learned counsel for the petitioner contended that the petitioner is the owner of the Tipper Lorry vehicle bearing Registration No.TN61 8728. The respondent police registered a case against one Srinivasan and Ranjith in Crime No.346 of 2022 on 14.10.2022 for the offence under sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act and seized the vehicle of the petitioner. He further contended that without the knowledge of the petitioner, the said Srinivasan used his vehicle for transporting 5 units of river sand. The vehicle has been seized on 14.10.2022 and it is in the custody of the police from that date onwards. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated. The petitioner is not arrayed as an accused in Cr.No.346 of 2022. He will give an undertaking that he will not alienate the property and he will produce the vehicle as and when required before the Court below. Thus, he seeks to order for returning the vehicle.



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4. The learned Govt. Advocate (crl.side) submitted that the respondent police registered a case in Cr.No.346 of 2022 and seized four vehicles on the allegation of illegal transportation of 5 units of river sand. The petitioner is the owner of the tipper lorry bearing Registration No.TN61 8728 and there is no previous case pending against the owner of the vehicle.

5. Heard both sides and perused the materials available on record.

6. On perusal of records, it is revealed that the respondent police registered a case against the petitioner/accused in Crime No.346 of 2022 for the offence punishable under sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act. It is not disputed that the petitioner is the owner of the vehicle bearing Registration Registration No.TN61 8728. The petitioner is not an accused and he is only owner of the vehicle and according to him, without his knowledge, his vehicle was used for illegal transportation of 5 units of river sand and the vehicle is not



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involved in any similar type of previous cases and the petitioner is not having any previous case. Now, the petitioner seeks return of vehicle, which was stationed in an open yard subject to natural calamities and unconditional weather conditions which would depreciate the value of the vehicle.

7. In ***Sunderbhai Ambalal Desai vs State Of Gujarat*** (cited supra), the Hon'ble Supreme Court in paragraph No.17 has held as follows:

"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."

8. Considering the above facts and circumstances of the case and the



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gravity of the offence and also considering the dictum of the Supreme Court cited supra, I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

9. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle Tipper Lorry vehicle bearing Registration No.TN61 8728 to temporary custody of the petitioner, on complying 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.10,00,000/- (Rupees ten lakhs only) before the Principal District and Sessions Judge, Nagapattinam
- 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.



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10. Accordingly, the Criminal Revision is allowed.

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msr

Index:yes/no

Internet:yes/no

To

1. The Principal District and Sessions Judge,
Nagapattinam
2. The Inspector of Police,
Manalmedu Police Station,
Mayiladuthurai District.
3. The Public Prosecutor,
High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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