



Crl.R.C.No.176 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 02.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.176 of 2023

Navrhussain

... Petitioner

-VS-

State Rep. by
Inspector of Police,
Thittacherry Police Station,
Nagapattinam District.
(Crime No.39 of 2020)

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., pleaded to call for the records in Crl.M.P.No.4392 of 2022 on the file of the Principal Session Judge, Nagapattinam and set aside the same, subsequently grant interim custody of the vehicle namely Ashok Leyland Tipper Lorry bearing registration No.TN-57-P-6040 to the petitioner in connection with the crime NO.39 of 2020 on the file of the respondent police.



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For Petitioner : Mr.K.Pragadeesh Kumar
For Respondent : Mr.V.Meganathan
Govt. Advocate (Crl.Side)

ORDER

Challenging the order of dismissal of the petitioner's application filed to return the vehicle under Sections 451 & 457 of Cr.P.C, passed by the Principal District and Sessions Judge, Nagapattinam, in Crl.M.P.No.4392 of 2022, dated 22.12.2022, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the Tipper Lorry bearing Reg.No.TN-57-P-6040. The respondent police registered a case in Crime No.39 of 2020 for the offences under Sections 379 & 430 of I.P.C and 21(1) of Mines and Minerals (Development & Regulation Act). Based on the complaint given by one Mr.V.K.Kumar, the respondent police intercepted the vehicle belonging to the petitioner on the allegation that the vehicle has been involved in transportation of 2½ unit of river sand illegally. Hence, the petitioner filed an application before the Trial Court for returning of his



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vehicle bearing registration No.TN-57-P-6040 and the Trial Court dismissed the petition and passed the impugned order on the ground that the vehicle has been involved in illegal transportation of river sand.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the Tipper Lorry bearing Registration No.TN-57-P-6040. The petitioner has not committed any similar type of offence and he is ready to abide any condition imposed by this Court. 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.

4. When the matter is taken up, the Learned Government Advocate (Crl.Side) for the respondent objected to return the vehicle. However, he submitted that the petitioner's vehicle has not involved in any previous case or similar type of offence. Hence, he prays to dismiss the petition.



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5. On perusal of records, the fact reveals that the petitioner is the owner of the vehicle bearing Reg.No.TN-57-P-6040. Based on the complaint given by one Mr.V.K.Kumar, the respondent police intercepted vehicle which was loaded with 2½ unit river sand without any permission from the concerned authority, seized the vehicle and registered a case in Crime No.39 of 2020 for the offences under Sections 379 & 430 of I.P.C and 21(1) of Mines and Minerals (Development & Regulation) Act. 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.

6. 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.



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 lose its value and no purpose will be served. Considering the nature of offence and also taking into account the fact that the vehicle is not involved in any other case similar in nature, this Court is inclined to allow the Criminal Revision Case.

7. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-57-P-6040 to the petitioner for the temporary custody 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



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vi. The petitioner shall also produce the vehicle as and when required before the Court below and before the respondent police.

8. Accordingly, the Criminal Revision Case is allowed.

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Index : Yes/No.

Internet : Yes/No.

bsm

To,

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



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V.SIVAGNANAM, J.,

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