



Crl.R.C.No.473 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.473 OF 2023

Ramachadran

(claims to be the owner of Tractor
attached with Tipper bearing
Regn.No.TN-51-AQ-1279)

.. Petitioner

Vs

Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District
(Cr.No.230/2022)

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C. to call for the records and set aside the order dated 26.09.2022 passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.3015 of 2022 in Crime No.230 of 2022 and to return the Tractor with Tipper bearing Regn.No.TN-51-AQ-1279, Chasis No.930113135242 and Engine No.S325L35282 to the custody of the petitioner.

For Petitioner : Mr.N. Palanivel

For Respondent : Mr. R. Vinothraja, GA (Crl.side)



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ORDER

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This Criminal Revision case has been filed challenging the order of dismissal dated 26.09.2022 passed by the Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.3015 of 2022 seeking interim custody of the vehicle viz., Tractor with Tipper bearing Regn.No.TN-51-AQ-1279.

2. The learned counsel for the petitioner contended that the petitioner is the owner of the vehicle namely, Tractor with Tipper bearing Regn.No.TN-51-AQ-1279, which was seized by the respondent police for commission of offence under sections 379 IPC r/w.21(1) of Mines and Minerals (Development & Regulation) Act in Crime No.230 of 2022 on the allegation of illegal sand mining from the patta land without any licence or permission. Seeking interim custody of the abovesaid vehicle, the petitioner, being the owner of the vehicle, filed Crl.M.P.No.3015/2022 before the Principal District and Sessions Judge, Nagapattinam, but the learned trial Judge dismissed the petition on the ground that if the vehicle is released, the same would be used for committing similar nature of offence. He further submitted that the petitioner has not taken any sand from the patta land, but the case has been registered that the petitioner has made an attempt to take sand from the patta



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land using his vehicle.

3. Further, the learned counsel for the petitioner 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. The petitioner is ready to give appropriate guarantee as well as security 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 and he is ready to obey any condition imposed on him by this Court.

4. The learned Government Advocate (crl.side) appearing for the respondent objected to return the vehicle to the petitioner stating that the petitioner has attempted to take sand from the patta land, hence his vehicle was seized by the respondent police. Thus he pleaded for dismissal of this petition.

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



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respondent.

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6. On perusal of the records, it is the case of the prosecution that on 16.08.2022, the VAO of Sembodai village, Vedaranyam, on receiving complaint from the RDO, conducted inspection at the patta land in S.No.15-1P-025.0 Ares belonging to one Saritha, during the course of which, he found a tractor without any registration number has been parked along with the sand in the place of occurrence. On the complaint given by the said VAO before the respondent police, a case has been registered in Cr.No.230 of 2022 for the offence under sections 379 IPC r/w.21(1) of Mines and Minerals (Development & Regulation) Act. Pursuant to which, the vehicle was seized by the respondent police. Admittedly, no sand was recovered from the vehicle and the allegation itself is that the accused persons have prepared for taking the sand without permit from the patta land. Further, the vehicle is not previously involved in any type of offence similar in nature

7. Perusal of records would further reveal that the petitioner is only the



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owner of vehicle and the petitioner is ready to give guarantee and security for returning the vehicle. If the vehicle is being kept in an 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. Further, if the vehicle is exposed in public place and kept unattended, it will lose its value and user capacity. Further, the Honourable Supreme Court in the case of *Sunderbhai Ambalal Desai and others Vs.State of Gujarat* in Special Leave Petition (crl.) 2745 of 2022 dated 01.10.2002 has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.

8. Considering the above aspects and also 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 and also taking into account the fact that the vehicle is not involved in any other case similar in nature previously, this Court is inclined to allow the Criminal Revision Case.



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9. In the result, this Criminal Revision is allowed and the impugned order passed by the Principal District and Sessions Judge, Nagapattinam is set aside. The interim custody of Tractor with Tipper Lorry bearing Regn.No.TN-51-AQ-1279 is ordered to be handed over to the petitioner 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 execute a bond for a sum of Rs10,00,000-(Rupees ten lakhs only) before the Principal District and Sessions Judge, Nagapattinam;
- iii. The Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle and such panchanama can be used in evidence.
- iv. the petitioner may take photograph of the vehicle and certified under Section 65B of the Central At 1 of 1972 and such photographs may be used as secondary evidence.
- v. the petitioner shall not alienate or encumber the vehicle in any manner;
- vi. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.



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vii.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

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Index: yes/no

Internet:yes/no

To

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



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V. SIVAGNANAM, J.

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