



Crl.R.C.No.527 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 29.03.2023

CORAM

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

Crl.R.C.No.527 of 2023

Kanitha

... Petitioner

Vs.

1.State rep by
the Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District.
(crime no.1493 of 2021)

... Respondent

PRAYER : Criminal Revision Case has been filed under sections 397 read with 401 of Criminal Procedure Code to call for the records and set aside the order passed by the learned Principal District and Sessions Judge, Nagapattinam in C.M.P.No.2698 of 2022 dated 15.09.2022 and consequently direct the respondent police to return the John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162, which was seized by the respondent police in Crime No.1493 of 2021.

For Petitioner	: Mr.B.Harish for M/s.K.M.Vijayan Associates
For Respondent	: Mr.R.Vinothraja Government Advocate (Crl.Side)



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ORDER

This Criminal Revision Case has been filed to call for the records and set aside the order passed by the learned Principal District and Sessions Judge, Nagapattinam in C.M.P.No.2698 of 2022 dated 15.09.2022 and consequently direct the respondent police to return the John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162, which was seized by the respondent police in Crime No.1493 of 2021.

2.The case of the prosecution is that on 29.06.2021, on receipt of information, the respondent police went for check up and found that one Karthikeyan is in illegal possession of $\frac{3}{4}$ unit of river sand. The petitioner's Tractor bearing Registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162 was involved in an illegal transportation of $\frac{3}{4}$ unit of sand. Hence, the respondent police registered a case in Crime No.1493 of 2021 against the accused persons for the offence under Sections 379 IPC r/w Section 21(1) of Mines & Minerals (Development &



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Regulation) Act, 1957 and seized the Tractor and Tipper along with $\frac{3}{4}$ unit of sand.

3. The learned counsel appearing for the petitioner submitted that the petitioner is the owner of the vehicle namely John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162. The petitioner filed an application before the Principal District and Sessions Judge, Nagapattinam, in Crl.M.P.No.2698 of 2022 under Sections 451 & 457 of Cr.P.C. for return of vehicle and the learned Judge by order dated 15.09.2022 dismissed the same. Challenging the said order, the petitioner has filed the present revision before this Court.

4. The learned Government Advocate (Crl.Side) appearing for the respondent submitted that the petitioner is the owner of the vehicle namely John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162 and since the above said vehicle was used to transport the river sand illegally, it was seized and



hence, he objected to return the vehicle to him.

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

6.On a perusal of the records, it reveals that the respondent police registered a case in Crime No.1493 of 2021 and seized a vehicle namely John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162 for illegal transportation of $\frac{3}{4}$ unit of river sand. Further, it reveals from the records that the petitioner is not an accused in this case and he is the owner of the John Deere Tractor bearing registration no.TN 82 F 0590 attached with Tipper bearing registration no.TN 31 BW 9162 and it was seized by the respondent police. The Trial Court dismissed the petition in Crl.M.P.No.2698 of 2022, filed by the petitioner, on the ground that the petition, relating to return of vehicle involved in Mines and Minerals theft, is not maintainable before the



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Magistrate. 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.

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



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*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.***

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 Revision Petition.

8. Accordingly, this Criminal Revision Petition 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 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;



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- 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.7,00,000/- (Rupees seven 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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To

1.The Principal District and Sessions Judge, Nagapattinam.

2.Inspector of Police,
Mayiladuthurai Police Station,
Mayiladuthurai District.
(crime no.1493 of 2021)

3.The Public Prosecutor,
High Court of Madras, Chennai-104.



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V.SIVAGNANAM, J.,
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