



Crl.R.C.No.431 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.431 OF 2023

M. Manikandan

.. Petitioner

Vs

State, represented by
The Inspector of Police,
BRAMMADESAM Police Station,
Villupuram District
(Crime No.152/2022)

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C. to call for the records in Cr.M.P.No.5031 of 2022, dated 16.07.2022 on the file of the Judicial Magistrate-II, Tindivanam in Crime No.152 of 2022 and direct the respondent to release the Tipper Lorry bearing Regn.No.TN 32 Q 6559.

For Petitioner : Mr.G. Tamilselvan

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 16.07.2022 passed by the Judicial Magistrate II, Tindivanam in Crl.M.P.No.5031 of 2022 filed under sections 397 r/w.401 of Cr.P.C. seeking interim custody of the vehicle viz., Tipper Lorry bearing Registration No.TN-32-Q-6559.

2. The learned counsel for the petitioner contended that the petitioner is A2 and is the owner of the vehicle which was seized by the respondent police for illegal transportation of 6 cubic meter blue metals without valid permit. A case was registered by the respondent under sections 379 of IPC r/w. 21(1) of Mines and Minerals (Development and Regulation) Act 1957 on 16.07.2022 in Cr.No.152/2022. Pursuant to which, the Tipper Lorry bearing Registration No.TN-32-Q-6559 was seized by the respondent police. The respondent police arrested the driver of the vehicle/A1 and the petitioner, being the owner of the vehicle was arrayed as A2. He further submitted that the petitioner is only owner of the vehicle and he is nothing to do with the offence and the vehicle also not involved in similar type of any cases. The licence period with regard to the vehicle has been lapsed



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and the same is yet to be renewed. Thus, he seeks to grant interim custody of the vehicle to the petitioner.

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) for the respondent objected to return the vehicle to the petitioner and submitted that there is no previous case against this petitioner and the vehicle is not involved in the similar type of case previously. There is no antecedent in this regard against this petitioner. The vehicle is kept under the custody of the Court in PR.No.37 of 2021.



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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 respondent.

6. On perusal of the records, the fact reveals that on 16.07.2022, when the respondent police, on receiving secret information regarding illegal transportation of minerals, went to a place near T.Nallalam Village and conducted vehicle check up in the road proceeding from Tindivanam to Marakkanam, along with government officials, they intercepted the Tipper Lorry bearing Registration No.TN-32-Q-6559 belonging to the petitioner and on search, they found 6 cubic units of blue metal were illegally transported in the said vehicle without valid permit. Immediately they seized the vehicle and registered a case for the offence under sections 379 IPC and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 in Crime No.152 of 2022. The petitioner is the owner of the above said vehicle and he was arrayed as an accused in Crime No.152 of 2022. Further the vehicle was not involved previously in similar type of offences.



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

the 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 loss 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. 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 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. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 16.07.2022 passed in Crl.M.P.No.5031 of 2022 by the Judicial Magistrate II, Tindivanam is set aside. The Judicial Magistrate, Tindivanam is directed to return the vehicle viz., Tipper Lorry bearing Registration No.TN-32-Q-6559 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;
- 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 Judicial Magistrate II, Tindivanam.
- 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 the same shall be produced before the court.



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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.

14.03.2023

msr

Index: yes/no

Internet:yes/no

To

1. The Inspector of Police,
BRAMMADESAM Police Station,
Villupuram District
2. The Judicial Magistrate No.II,
Tindivanam,
3. The Public Prosecutor,
Madras High Court.

Note; Issue on 17.03.2023



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V. SIVAGNANAM, J.

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