



Crl.R.C.No.457 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.457 OF 2023

Murugesan

.. Petitioner

Vs

The State of Tamil Nadu,
represented by Sub-Inspector
of Poice, Sankarapuram
Police Station, Kallakurichi
District, Tamil Nadu

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C. to set aside the order dated 07.02.2023 passed in Crl.M.P.No.98 of 2023 on the file of Judicial Magistrate Court, Sankarapuram in FIR No.411 of 2022, dated 26.09.2022 on the file of the respondent police and direct the respondent to produce the said vehicle (Mahindra 475 DI LMV Tractor) bearing its Registration No.TN 32 V 0588 and hand over the abovesaid vehicle to the petitioner.

For Petitioner : Mr.B. Vikram Veerasamy

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 07.02.2023 passed by the Judicial Magistrate Court, Sankarapuram in Crl.M.P.No.98 of 2023 filed under sections 397 r/w.401 of Cr.P.C. seeking interim custody of the vehicle viz., Mahindra 475 DI LMV Tractor, bearing Registration No.TN 32 V 0588.

2. The learned counsel for the petitioner contended that he is the owner of the vehicle namely, Mahindra 475 DI LMV Tractor, bearing Registration No.TN 32 V 0588, which was seized by the respondent police for commission of offence under sections 379 and 511 IPC in Crime No.411 of 2022 on the allegation of sand theft. He further submitted that in the FIR itself, it was mentioned that Mahindra Tractor is not filled with any lake sand and an empty tractor alone was seized from the lake, pursuant to which, a case has been registered against the petitioner on the allegation of illegal sand theft. Seeking interim custody of the abovesaid vehicle, the petitioner filed Crl.M.P.No.98/2023 before the Judicial Magistrate, Sankarapuram, but the learned trial Judge, without considering the abovesaid fact, dismissed the petition. Hence, the impugned order is



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challenged in the present criminal revision case and pleaded for granting interim custody of the above said 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 river sand in his tractor, but he fairly conceded that in the FIR, it is mentioned that only an empty Mahindra Tractor bearing Regn.No. TN 32 V 0588 has been seized and a case has been registered against the owner of the vehicle, i.e., the petitioner and it is



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produced before the trial court in Property No.602 of 2022.

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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, it is the case of the prosecution that on 26.09.2022, on receiving information regarding illegal taking of sand from Manjaputtur Lake, the VAO, Manjaputtur went to the occurrence spot and found the above said vehicle parked in the lake. On enquiry, it was found that the vehicle was parked in the lake for taking lake sand, hence a case has been registered against the owner of the vehicle, pursuant to which, the abovesaid Tractor was seized. Further, the fact reveals that at the time of seizing the vehicle, there is no sand found in the vehicle and only an empty vehicle has been recovered, based on which, a sand theft case has been registered. Now the vehicle is kept under the custody of court under case property No.602 of 2022.

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



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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. 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. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 07.02.2023 passed in Crl.M.P.No.98 of 2023 by the Judicial Magistrate Court, Sankarapuram is set aside. The Judicial Magistrate, Tindivanam is directed to return the vehicle viz., Tipper Lorry bearing Registration No. TN 32 V 0588 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.6,00,000/- (Rupees six lakhs only) before the Judicial Magistrate, Sankarapuam.
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.



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v. the petitioner shall take photograph of the vehicle; and the same shall be produced before the court.

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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msr

Index: yes/no

Internet:yes/no

To

1. The Sub-Inspector of Poice,
Sankarapuram Police Station,
Kallakurichi District, Tamil Nadu
2. The Judicial Magistrate,
Sankarapuram,
3. The Public Prosecutor,
Madras High Court.



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V. SIVAGNANAM, J.

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