



Crl.R.C.No.628 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.628 OF 2023

Selva Kumar

.. Petitioner

Vs

State by,  
the Inspector of Police,  
Kanjapur Police Station,  
Villupuram District  
(Cr. No.150/2022)

... Respondent

Prayer: Criminal Revision Case filed under section 397 & 401 Cr.P.C. to call for the records of the District Munsif cum Judicial Magistrate, Vikravandi and set aside the order dated 30.08.2022 in C.M.P.No.199 of 2022 and order return of the vehicle, Crane Vehicle bearing Regn.No.TN-18-L-1696 concerned in Crime No.150 of 2022 on the file of the respondent to the custody of the petitioner herein.

For Petitioner : Mr. M.R. Elavarasan

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 30.08.2022, passed by the the District Munsif cum Judicial Magistrate, Vikravandi in Cr.M.P.No.199 of 2022 seeking return of vehicle viz., crane Vehicle bearing Regn.No.TN-18-L-1696, seized by the respondent police.

2.The facts leading to filing of this Criminal Revision Case are as follows;

(i) the petitioner is the owner of the Crane Vehicle bearing Regn.No.TN-18-L-1696 and the said vehicle was seized by the respondent police on 21.05.2022 on the allegation that the vehicle was indulged in illegal transportation of 10 tonnes of black jelly stones without valid permit.

(ii) Pursuant to which, the respondent police registered a case in Cr.No.150/2022 on 21.05.2022 for the offence under section 379 IPC r/w. Section 21(1) of Mines and Minerals (Development and Regulation) Act,1957 against the petitioner/A3 along with A1 and A2.

(iii) Now the vehicle was kept under the custody of the respondent police.



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The petitioner, being the owner of the vehicle, filed a petition in Crl.M.P.No.199 of 2022 before the District Munsif cum Judicial Magistrate, Vikravandi for return of property, but his petition was dismissed on 30.08.2022 by the court below on the ground that the petitioner has committed illegal mining and attempted to transport 10 tonnes of black gravel stones without proper and valid permit.

(iv) Aggrieved against the order of dismissal, the petitioner has filed the present criminal revision case seeking return of crane Vehicle bearing Regn.No.TN-18-L-1696.

3.The learned counsel for the petitioner submitted that the vehicle is not involved in any previous case of offence of similar in nature. The vehicle has been kept under the custody of the court from 21.05.2022 and if the vehicle is kept in open space under unconditional weather conditions, the same would depreciate its value and user capacity.

4. Further, the learned counsel for the petitioner contended that no purpose will be served in keeping the vehicle under the custody of respondent



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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.

5. The learned Govt. Advocate (Crlside) objected to return of vehicle, stating that the vehicle was used for illegal transportation of 10 tonnes of black stones and if the vehicle is ordered to be returned, he may use the vehicle for committing same offence. He fairly conceded that the vehicle is not involved in any previous case of similar in nature.

6. Heard both sides and perused the entire materials available on record.

7.A perusal of the records would reveal that the respondent police, while conducting police patrolling to curb illegal mining activities near the land belonging to Athiyur Thirukkai Perumal Temple, they found an Ashok Leyland Taurus Lorry bearing Regn.No.TN 19 A 6332 loaded with 10 tonnes



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of black stones was parked there and nearby the Lorry, they also found a crane vehicle bearing Regn.No.TN-18-L-1696 used for loading the black stones in the said lorry. On seeing the police, the persons indulged in loading the black stones in the lorry escaped from that place. Thereafter, the respondent police seized both the vehicles and registered a case against the petitioner/A3 along with A1 and A2. The petitioner is the owner of the Crane Vehicle bearing Regn.No.TN-18-L-1696. After seizure, it was kept under the custody of the respondent police from 21.05.2022.

8. Perusal of records would further reveal that the petitioner is the owner of vehicle and he 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, 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.



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9. 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.

10. In the result, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The interim custody of the crane vehicle bearing Regn.No.TN-18-L-1696 is ordered to be handed over to the petitioner, who is 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 execute a personal bond for a sum of Rs.10,00,000/-(Rupees ten lakhs only) before the District



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- iii.The abovesaid court is directed not to insist upon the petitioner for producing solvency certificate while releasing the vehicle.
- iv.The Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle and such panchanama can be used in evidence.
- v. the petitioner may take photograph of the vehicle and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- vi.the petitioner shall not alienate or encumber the vehicle in any manner;
- vii.the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
- viii.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

09.06.2023

msr  
Index: yes/no  
Internet:yes/no

To

1. The District Munsif cum Judicial Magistrate, Vikravandi.

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2. The the Inspector of Police,  
Kanjapur Police Station,  
Villupuram District
3. The Public Prosecutor,  
Madras High Court.

**V. SIVAGNANAM, J.**

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