



Crl.R.C.No.458 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.458 OF 2023

Saravananaraj

.. Petitioner

Vs

The State by
Inspector of Police,
Vellimedupettai Police Statio,
Villupuram District.
(Cr.No.190/2022)

... Respondent

Prayer: Criminal Revision Petition filed under section 397 r/w.401 Cr.P.C. to call for the recods of the Judicial Magistrate No.1, Tindivanam and set aside the order dated 23.02.2023 in Cr.M.P.No.522 of 2023 and order return of the vehicle TATA Benz Tipper Lorry bearing Regn.No.TN 25 AF 7753 in Cr.No.190/2022 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 23.02.2023 passed by the Judicial Magistrate No.I, Tindivanam in Crl.M.P.No.522 of 2023 seeking interim custody of the vehicle viz., TATA Benz Tipper Lorry bearing Regn.No.TN 25 F 7753.

2. The learned counsel for the petitioner contended that he is the owner of the vehicle namely, TATA Benz Tipper Lorry bearing Regn.No.TN 25 F 7753, 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.190 of 2022 on the allegation of illegal transportation of gravel sand in poramboke land. Seeking interim custody of the abovesaid vehicle, the petitioner, being the owner of the vehicle, filed Crl.M.P.No.522/2023 before the Judicial Magistrate No.1, Tindivanam, 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 poramboke land, but the case has been registered that the petitioner has made



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an attempt to take sand from the promboke land. Hence he seeks for granting interim custody of the 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) appering for the respondent objected to return the vehicle to the petitioner stating that the petitioner has attempted to take gravel sand from the village poramboke land, hence his vehicle was seized along with a JCB. Thus he pleaded for dismissal of this petition.

5. I have considered the submissions made by the learned counsel for



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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 23.11.2022, the VAO of Keezhmavilangai Group village, Tindivanam Taluk, on receiving complaint from the villagers, conducted inspection at S.No.58/- 1.30.0 Ares, Tharisu Pormboke land at Kalpakkam village, during the course of which, he found that a tipper lorry bearing Regn. No.TN-25-A-7753 and a JCB bearing Regn. No.TN-12-S-0294 were indulged in illegal taking of gravel sand. On the complaint given by the said VAO before the respondent police, a case has been registered in Cr.No.190 of 2022 for the offence under sections 379 IPC r/w.21(1) of Mines and Minerals (Development & Regulation) Act. Pursuant to which, both the vehicles were seized and now they were kept under the custody of court below under case property No.16 of 2023. Admittedly no sand was recovered from the vehicle and the allegation itself is that the accused persons have attempted to take sand without permit.



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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. 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 Original Petition is allowed and the impugned order passed by the Trial Court is set aside. The interim custody of TATA Benz Tipper Lorry bearing Regn.No.TN 25 AF 7753 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 Rs.8,00,000/-(Rupees eight lakhs only) before the Judicial Magistrate No.1, Tindivanam.
- 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 Inspector of Police,
Vellimedupettai Police Statio,
Villupuram District.
2. Judicial Magistrate No.1, Tindivanam .
3. The Public Prosecutor,
Madras High Court.



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V. SIVAGNANAM, J.

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