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Crl.R.C.No.514 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 20.03.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.R.C.NO.514 OF 2023

Kalaivani

... Petitioner

Vs.

State by
The Sub Inspector of Police
Periyathachur Police Station
Villupuram District.
(Crime No.52 of 2022)

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 and 401 of Cr.P.C., to set aside the order dated 02.03.2023 made in Crl.M.P.No.6782 of 2022 on the file of Judicial Magistrate No.II, Tindivanam, return the vehicle of Ashok Leyland Dosth four wheeler bearing Registration No.TN-19-T-4954 to the petitioner.

For Petitioner : Mr.S.Sathya

For Respondent : Mr.R.Vinothraja
Government Advocate (Crl.Side)



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ORDER

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Challenging the order dated 02.03.2023, passed in Crl.M.P.No.6782 of 2022, by the learned Judicial Magistrate No.II, Tindivanam, dismissing the petition filed under Sections 451 and 457 of Cr.P.C., to return the vehicle, the petitioner has filed the present Criminal Revision.

2. The respondent police seized the Ashok Leyland Dosth Four Wheeler bearing Registration No.TN19-T-4954 belonging to the petitioner on the allegation that the vehicle is indulged by the accused persons in illegal transportation of one unit of river sand. Pursuant to which, the respondent police registered a case in Crime No.52 of 2022 for the offences under Sections 379, 430 IPC read with 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner, who is the owner of the above said vehicle filed an application before the Trial Court for return of vehicle. The Trial Court dismissed the petition and passed the impugned order on the ground that if the vehicle is released, there is every possibility of redeployment of the vehicle for committing the same offence.



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3. The learned counsel for the petitioner contended that the petitioner is the owner of the Ashok Leyland Dosth Four Wheeler bearing Registration No.TN19-T-4954. The respondent police registered a case against one Venni and Siva in Crime No.52 of 2022 on 17.03.2022 for the offences under Sections 379, 430 IPC read with 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 and seized the vehicle of the petitioner. He further contended that without the knowledge of the petitioner, the said Venni and Siva used her vehicle for transporting one unit of river sand. The vehicle has been seized on 17.03.2022 and it is in the custody of the respondent police from that date onwards. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated. The petitioner is not arrayed as an accused in Crime No.52 of 2022. She will give an undertaking that she will not alienate the property and she will produce the vehicle as and when required before the Court below. Thus, he seeks to order for returning the vehicle.



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4. The learned Government Advocate (Criminal Side) submitted that the respondent police registered a case in Crime No.52 of 2022 and seized the vehicle on the allegation of illegal transportation of one unit of river sand. The petitioner is the owner of Ashok Leyland Dosth Four Wheeler bearing Registration No.TN19-T-4954 and there is no previous case pending against the owner of the vehicle.

5. Heard the submission made on either side and perused the materials available on record.

6. On perusal of records, it is revealed that the respondent police registered a case in Crime No.52 of 2022 for the offences punishable under Sections 379, 430 IPC read with 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. It is not disputed that the petitioner is the owner of the vehicle bearing Registration No.TN19-T-4954. The petitioner is not an accused and she is only owner of the vehicle and according to her, without her knowledge, her vehicle was used for illegal transportation of one unit of river sand and the vehicle is not involved in any similar type of previous



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cases and the petitioner is not having any previous case. Now, the petitioner seeks return of vehicle, which was stationed in an open yard subject to natural calamities and unconditional weather conditions, which would depreciate the value of the vehicle.

7. In *SUNDERBHAI AMBALAL DESAI AND OTHERS VS. STATE OF GUJARAT* IN SPECIAL LAVE PETITION (CRL.)2745 OF 2022 DATED 01.10.2002, the Hon'ble Supreme Court, in paragraph No.17 has held as follows:

"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."



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8. Considering the above facts and circumstances of the case and the gravity of the offence and also considering the dictum laid down by the Hon'ble Supreme Court in the judgment cited supra, I am inclined to order return of vehicle to the temporary custody of the petitioner on certain conditions.

9. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle Ashok Leyland Dosth Four Wheeler, bearing Registration No.TN19-T-4954, to the temporary custody of the petitioner, on complying the following conditions:

- i. the petitioner shall prove her 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.8,00,000/-(Rupees Eight Lakhs only)



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before the Judicial Magistrate No.II,
Tindivanam;

iv.the petitioner shall give an undertaking that
she 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.

10. Accordingly, the Criminal Revision is allowed.

20.03.2023

Index : Yes/no
Internet : Yes/no
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V.SIVAGNANAM, J.

TK

To

- 1.The Judicial Magistrate No.II
Tindivanam.
- 2.The Sub Inspector of Police
Periyathachur Police Station
Villupuram District.
3. The Public Prosecutor
High Court of Madras
Chennai.

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