



Crl.R.C.No.618 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.618 of 2023

Thara

... Petitioner

Vs.

Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District,
Crime No.1062 of 2020

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 and 401 of Criminal Procedure Code, 1973 to call for the records and set aside the order dated 16.08.2022 passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.2345 of 2022 in Crime No.1062 of 2020 and to return the Taras Lorry bearing Registration No.TN-19-AE-0499, Chasis No.MAT448803H3F14844 and Engine No.91804071F63602339 to the custody of the petitioner.



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

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned Principal District and Sessions Judge, Nagapattinam in Crl.M.P.No.2345 of 2022 dated 16.08.2022 and to return the lorry bearing registration No. TN-19-AE-0499 to the petitioner /owner of vehicle.

2. It is the case of the prosecution that on 25.08.2020, when the respondent police along with their officials were on patrol duty near Sembodai North Street, they found that five (5) units of Savudu soil was transported illegally in a Lorry bearing Registration No.TN-19-AE-0499 without valid licence. Hence a case in Crime No.1062/2020 was registered under Section 379 of Indian Penal Code and 21(1) of



Mines and Minerals (Development and Regulation) Act, and the vehicle was seized.

3.The learned counsel for the petitioner contended that the petitioner is the owner of the vehicle and she is not an accused in this case. The accused rented the Auto to the 2nd accused and she has no knowledge about the contraband seized from the accused person. In such circumstances, he seeks to grant interim custody of the vehicle to the petitioner.

4.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 she will produce the vehicle, as and when required either before



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the respondent police or before the Trial Court. Hence, he prayed to return the lorry and she is ready to obey any condition imposed on her by this Court.

5. The learned Government Advocate (Crl.Side) submitted that, the petitioner is the owner of the lorry bearing registration No. TN-19-AE-0499 and she is not an accused in this case. Since the above said vehicle was used to transport the 5 units of Savudu soil illegally, it was seized and hence, he objected to return the vehicle to him.

6. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) appearing for the respondent and I have perused the materials on record.

7. A perusal of the records shows that the respondent police registered a case in Crime No.1062/2020 for the offence under Section



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379 of Indian Penal Code and 21(1) of Mines and Minerals (Development and Regulation) Act, with regard to transportation of 5 units of savudu soil illegally. Further, it reveals from the records that the petitioner is the owner of the Ashok Leyland lorry bearing registration No. TN-19-AE-0499 and she is not an accused. Further, the said contraband is not seized from the petitioner. It is the contention of the learned counsel for the petitioner that the petitioner is ready to give guarantee and security for returning the vehicle and if the vehicle is being kept idle in open space, it would cause damage to the vehicle.

8.At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others Vs. State of Gujarat in Special Lave Petition (Crl.)2745 of 2022 dated 01.10.2002*** and the relevant portion is extracted hereunder.



Vehicles

17. 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.

18. In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a



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*period of six months from the date of production of the said vehicle before the Court. **In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.***

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 petitioner is only the owner of the vehicle and she is not an accused in this case, this Court is inclined to allow the Revision Petition.

9. 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 vehicle is ordered to be handed over to the petitioner on the following conditions.



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- i. the petitioner shall prove her 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.10,00,000/- (Rupees ten lakhs only) before the learned Principal District and Sessions Judge, Nagapattinam
- 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
srn

To

- 1.The Principal District and Sessions Court, Nagapattinam
2. The Inspector of Police,
Vedaranyam Police Station,
Nagapattinam District,
3. The Public Prosecutor, Madras High Court.



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V.SIVAGNANAM, J.,

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