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Crl.R.C.No.693 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 19.04.2023

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THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.693 OF 2023

Chinna Ponnu

.. Petitioner

Vs

The Inspector of Police,
Vadaponparappi Police Station,
Kallakurichi District
Cr.No.431/2021.

... Respondent

Prayer: Criminal Revision Case filed under section 397 and 401 Cr.P.C. to set aside the order dated 22.04.2022 made in Crl.M.P.No.1157 of 2022 on the file of the Judicial Magistrate Sankarapuram and consequently direct the respondent police to return the petitioner's Tractor Model Powertrac EURO 50 E1, bearing Regn.No.TN-15-L-1594, Engine No.E3529664, Chassis No.T053470598KJ along with tipper by allowing this Criminal Revision Petition.

For Petitioner : Mr. V. Gunasekar

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 22.04.2022 passed by the Judicial Magistrate, Sankarapuram in Crl.M.P.No.1157 of 2022 seeking interim custody of the vehicle viz., bearing Regn.No.TN-15-L-1594, Engine No.E3529664, Chassis No.T053470598KJ

2.The fact of the case is that the petitioner is the owner of the Tractor and Tipper bearing Regn.No.TN-15-L-1594, Engine No.E3529664 and Chassis No.T053470598KJ. The respondent police registered a case in Cr.No.431/2021 on 31.12.2021 for the offence under section 379 IPC and Section 21(4) of Mines and Minerals (Development & Regulation) Act, 1957 against the driver and owner of the above said vehicle, who indulged the vehicle for illegal transportation of quarry stones without valid permit. Pursuant to which, they have seized the above said vehicle alleging that the vehicle has been engaged in illegal transportation of 2 units of quarry stones. Now the vehicle was kept under the custody of the court below in C.P.No.42 of 2022. Since the petitioner is the owner of the vehicle, he filed a petition in



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CrI.MP.No.1157 of 2022 before the Judicial Magistrate, Sankarapuram for return of property in C.PNo.42 of 2022. The trial court dismissed the petition on the ground that the petitioner has committed theft of 2 cubic units of quarry stones in his vehicle without proper and valid license.

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 15.10.2022 in C.P.No.42 of 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 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



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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 (Crl.side) objected to return of vehicle, stating that the vehicle was used for illegal transportation of quarry 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 a complaint was given by the Assistant Director, Geology and Mining Department, Kallakurichi stating that while he was conducting inspection in Manalur village, Sankarapuram, they found a tractor bearing Engine No.E3529664 was engaged in illegal transportation of 2 cubic units of quarry stones and on seeing them, the driver of the tractor escaped from the occurrence spot and thereafter the tractor along with trailer was seized and handed over to the respondent police. Pursuant to



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which, a case has been registered by the respondent police on 31.12.2021 in Cr.No.431 of 2021 for the offence u/s.379 of IPC and Section 21(4) of Mines and Minerals (Development & Regulation) Act, 1957. The petitioner is the owner of the tractor and Tipper bearing Regn.No.TN-15-L-1594. After seizure, the vehicle was produced before the court below in C.P.No.42 of 2022 and it has been kept under custody from 15.10.2022 onwards.

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 Tractor , bearing Regn.No.TN-15-L-1594, Engine No.E3529664, Chassis No.T053470598KJ along with tipper 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.4,00,000/-(Rupees four lakhs only) before the Judicial Magistrate, Sankarapuram and the learned Magistrate shall



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not insist for production of solvency certificate.

- 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 Act 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;
- vii. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

19.04.2023

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Index: yes/no

Internet: yes/no

Note: issue copy on 26.04.2023

To

1. The Judicial Magistrate, Sankarapuram.
2. The Inspector of Police,
Vadaponparappi Police Station,
Kallakurichi District.
3. The Public Prosecutor,
Madras High Court.



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V. SIVAGNANAM, J.

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