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Crl.R.C.No.698 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.02.2023

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THE HONOURABLE MR.JUSTICE V.SIVAGNANAM

Crl.R.C.No.698 of 2022

Venkatesan

... Petitioner

/vs/

1.State rep by
The Inspector of Police,
Guduvancherry Police Station,
Chengalpattu District,
Cr. No.738 of 2019.

2.The Branch Manager,
Mahindra & Mahindra Finance Ltd.,
Kancheepuram.

... Respondents

PRAYER : Criminal Revision Case has been filed under Section 397 r/w. 401 Cr.P.C. to call for the records made in Crl.M.P.No.2974 of 2020 dated 27.11.2020 on the file of the learned Principal District and Sessions Judge, Kancheepuram District at Chengalpattu and set aside the same.

For Petitioner

... Mr.C.Mageshkumar

For Respondents

... Mr.V.Meganathan
Government Advocate (Crl. Side)
for R1



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ORDER

The Criminal Revision Case has been filed under Section 397 r/w. 401 Cr.P.C. to call for the records made in Crl.M.P.No.2974 of 2020 dated 27.11.2020 on the file of the learned Principal District and Sessions Judge, Kancheepuram District at Chengalpattu and set aside the same.

2.The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle namely Tractor attached with Trailor bearing registration no.TN-21-BY-0187. The respondent police registered a case in Crime no.738 of 2019 for the offences under Section 430 and 379 IPC r/w 21(1) of the Mines and Minerals (Development & Regulation) Act and seized the vehicle namely Tractor bearing registration no.TN-21-BY-0187. The petitioner had filed an application in Crl.MP.No.2974 of 2020 for interim custody of the vehicle. The trial Court dismissed the said application on the ground that the petitioner has failed to prove the ownership of the Tractor which was seized by the respondent police.

3. The learned counsel submitted that the petitioner is having R.C. Book of the vehicle and all the particulars regarding the ownership are



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mentioned in R.C.Book, but the trial Court has failed to consider the said fact. Hence, the learned counsel has prayed to set aside the interim order dated 27.11.2020 and grant interim custody of the vehicle and to allow the revision petition.

4.Today, when the matter is taken up for hearing, the learned Government Advocate (Crl.side) has submitted that the registration number of the vehicle was not mentioned at the time of seizing of the vehicle and that they seized the vehicle without mentioning the registration number of the vehicle and after verification only, it was found that the engine number and chassis number are available. He further submitted that this vehicle is not involved in similar type of previous case.

5. I have considered the submissions made by the learned counsel on both sides and perused the entire materials available on record.

6. On perusal of the records, the fact reveals that the petitioner is the owner of the vehicle, namely Tractor bearing registration no.TN-21-BY-



0187 and it was seized by the respondent Police in connection with the case registered in Crime no.738 of 2019 for the offences under Section 430 and 379 IPC r/w 21(1) of the Mines and Minerals(Development & Regulation) Act. The trial Court had dismissed the said petition on the ground that the petitioner had not proved the ownership over the vehicle seized by the respondent Police. Now, the petitioner is ready to produce the proof with regard to the ownership of the vehicle before the trial Court and seek the interim custody of the vehicle.

7. At this juncture, it is relevant to refer a decision of the Hon'ble Supreme Court in ***“Sunderbhai Ambalal Desai and others Vs. State of Gujarat”*** in ***Special Leave Petition (Crl.) No. 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 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 vehicle is not involved in any other previous cases of similar in nature, this Court is inclined to allow the Criminal Revision Case.

8. Accordingly, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The respondent police is directed to return the vehicle to the owner of the vehicle on the



following conditions:

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- (i) The petitioner shall produce the original RC Book of the vehicle and other relevant records to prove his ownership and the learned Magistrate, on perusal of the RC book and other records, retaining the Xerox copy of the same, shall return the original documents to the petitioner with a view to use the vehicle;
- (ii) The petitioner shall not alter or alienate the vehicle in any manner till confiscation proceedings is over;
- (iii) The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) to the satisfaction of the Principal District and Sessions Judge, Kancheepuram District at Chengalpattu.
- (iv) The petitioner shall also give an undertaking that he will not use the vehicle for any illegal activities in future and also to produce the vehicle as and when required by the respondent or the Court below as well as by the District Collector of the District or authorized officer in that behalf by the Government;



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(v)The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicle, before the confiscation authority. This order is subjected to the confiscation proceedings.

Index : Yes/No
Internet : Yes/No

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To

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2.The Branch Manager,
Mahindra & Mahindra Finance Ltd.,
Kancheepuram.

3.The Public Prosecutor,
High Court of Madras,Chennai-104.



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V.SIVAGNANAM,J.

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