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Crl.R.C.No.657 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

CRL.R.C.NO.657 OF 2023

Gnanavel

... Petitioner

Vs.

The State rep by its
The Inspector of Police
Ulundurpet Police Station
Kallakurichi District.
Crime No.14 of 2023

... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 and 401 of Cr.P.C., to set aside the order passed by the learned Judicial Magistrate No.I, Ulundurpet, in C.M.P.No.1256 of 2023 dated 04.03.2023 and subsequently grant custody of vehicle Ashok Leyland Lorry bearing Registration No.TN-51-P-1522 to the petitioner.

For Petitioner : Mr.Raji

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



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ORDER

Challenging the order dated 04.03.2023 passed in C.M.P.No.1256 of 2023, by the learned Judicial Magistrate No.I, Ulundurpet, dismissing the petition filed under Section 451 of Cr.P.C., to return the vehicle, the petitioner has filed the present Criminal Revision.

2. On 07.01.2023 at about 07.15 hours, the Assistant Geologist, Geology and Mining Department, Villupuram has seized the four wheeler viz., Ashok Leyland Lorry bearing Registration No.TN-51-P-1522 belonging to the petitioner on the allegation that the vehicle is indulged by the accused persons in illegal transportation of three units of Pebbles. Pursuant to which, the respondent police registered a case in Crime No.14 of 2023 for the offence under Section 379 IPC. The petitioner, who is the owner of the above said vehicle filed a petition 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 four wheeler viz., Ashok Leyland Lorry bearing Registration No.TN-51-P-1522. The respondent police registered a case in Crime No.14 of 2023 on 07.01.2023 for the offence under Section 379 IPC and seized the vehicle of the petitioner. He further contended that without the knowledge of the petitioner, his vehicle has been used for transporting three units of Pebbles. The vehicle has been seized on 07.01.2023 and it is in the custody of the Trial Court from 23.02.2023. 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.14 of 2023. He will give an undertaking that he will not alienate the property and he will produce the vehicle as and when required before the Court below. Thus, he seeks to order for returning the vehicle.

4. The learned Government Advocate (Criminal Side) submitted that the respondent police registered a case in Crime No.14 of 2023 and seized the vehicle on the allegation of illegal transportation of three units of



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Pebbles. The petitioner is the owner of the four wheeler Ashok Leyland Lorry bearing Registration No.TN-51-P-1522 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.14 of 2023 for the offence punishable under Section 379 IPC. It is not disputed that the petitioner is the owner of the vehicle Ashok Leyland Lorry bearing Registration No.TN-51-P-1522. The petitioner is not an accused and he is only owner of the vehicle and according to him, without his knowledge, his vehicle was used for illegal transportation of three units of Pebbles and the vehicle is not involved in any similar type of previous 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.



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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."

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.



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9. Accordingly, the impugned order dated 04.03.2023 passed in C.M.P.No.1256 of 2023 passed by the learned Judicial Magistrate No.I, Ulundurpet, is set aside. The interim custody of the four wheeler viz., Ashok Leyland Lorry bearing Registration No.TN-51-P-1522 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.10,00,000/- (Rupees Ten Lakhs Only) before the learned Judicial Magistrate No.I, Ulundurpet;

(iii) the Court may prepare a Panchnama in Judicial Form No.82 with regard to the vehicle Ashok Leyland Lorry bearing Registration No.TN-51-P-1522 and such Panchanama can be used in evidence.

(iv) the petitioner may take photograph of the vehicle Ashok Leyland Lorry bearing Registration



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No.TN-51-P-1522 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; and

(vii) 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.

18.04.2023

Internet : Yes/no
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V.SIVAGNANAM, J.

TK

To

- 1.The Judicial Magistrate No.I
Ulundurpet.
- 2.The Inspector of Police
Ulundurpet Police Station
Kallakurichi District.
- 3.The Public Prosecutor
High Court of Madras
Chennai.

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