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Crl.R.C.NO.1052 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.07.2023

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THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1052 of 2023

Amirthavalli

...Petitioner

Vs.

State Rep. by
Inspector of Police,
Perambur Police Station,
Mayiladuthurai District.
(Crime No.57/2020)

...Respondent

Prayer: Criminal Revision filed under Section 397 r/w. 401 of Criminal Procedure Code to call for records and set aside the orders dated 02.02.2021 in Cr.M.P.No.362 of 2021 passed by the District and Sessions Judge, Nagapattinam.

For Petitioner : Mr.C.T.Saravanan

For Respondent : Mr.J.Subbiah,
Government Advocate (Crl. side)



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ORDER

Challenging the orders passed by the learned District and Sessions Judge, Nagapattinam, in Cr.M.P.No.362 of 2021, dated 02.02.2021, this Criminal Revision is filed by the petitioner.

2. The case of the prosecution is that on 13.03.2020, the petitioner's driver along with other accused illegally transported sand in a Tractor with trailer bearing registration No.TN 82 E 3790. The respondent police registered a case in Crime No.57 of 2020 for the offences under Sections 379 and 430 of IPC read with Section 21(1) of Mines and Minerals [Development & Regulation] Act, 1957 and seized the vehicle. The petitioner filed an application under Sections 451 and 457 of Cr.P.C. before the learned District and Sessions Judge, Nagapattinam in Crl.M.P.No.362 of 2011 seeking return of vehicle. The said application was dismissed by the Sessions Court on 02.02.2021, on the ground that if the vehicle is returned to the petitioner, he would use the same for committing similar offence and that confiscation proceedings should be initiated in such type of offences.



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3. Heard, Mr.C.T.Saravanan, learned counsel for the revision petitioner and Mr.J.Subbiah, learned Government Advocate (Crl. Side) learned counsel for the respondent.

4. The learned counsel for the petitioner submitted that the present petitioner is not involved in any offence and that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.

5. Per contra, the learned Government Advocate (Crl. side) contended that the vehicle was used for illegal transportation of sand and if the vehicle is ordered to be returned, he may use the vehicle for committing similar offence. Hence, he for sought dismissal of the petition.

6. 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 Lave Petition (Crl.)2745 of 2022 dated 01.10.2002***, wherein,



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the relevant portion is extracted hereunder.

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Vehicles

“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.

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.”



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7. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 02.02.2021 passed by the learned District and Sessions Judge, Nagapattinam is set aside. The District and Sessions Judge, Nagapattinam, is directed to return the vehicle to the owner of the vehicle on 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 execute a bond for a sum of Rs.2,00,000/- (Rupees Two Lakhs Only) before the learned District and Sessions Judge, Nagapattinam.
- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the 'Tractor with tipper' bearing Registration No.TN 82 E 3790 and such panchanama can be used in evidence.
- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 82 E 3790 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



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manner;

vi) the petitioner shall give an undertaking that she 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.

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Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
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To

- 1.The District and Sessions Judge,
Nagapattinam.
- 2.The Inspector of Police,
Perambur Police Station,
Mayiladuthurai District.
- 3.The Public Prosecutor,
High Court of Madras.
- 4.The Section Officer,
Criminal Section, High Court,
Madras.



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R. HEMALATHA, J.

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