



Crl.R.C.No.786 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.04.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.786 of 2023

Rajmohan

... Petitioner

Vs.

State Rep by
Inspector of police,
Perambur Police Station,
Mayiladuthurai District
(Crime No.240 of 2020)

... Respondent

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records in connection with Cr.M.P.No.1936 of 2020 dated 24.07.2020 passed by the District and Sessions Judge at Nagapattinam.

For Petitioner : Mr.C.T.Saravanan

For Respondent : Mr.R.Vinothraja

Government Advocate (Crl.Side)



Crl.R.C.No.786 of 2023

WEB COPY

ORDER

This Criminal Revision Petition has been filed to set aside the order passed by the learned District and Sessions Judge, Nagapattinam in Crl.M.P.No.1936 of 2020 dated 24.07.2020 and to return the Mahindra Tractor bearing registration No. TN-50-B-4180 to the petitioner /owner of vehicle.

2.The learned counsel for the petitioner submitted that the petitioner is the accused(A1) in this case. The respondent-Police registered a case against the petitioner along with other accused on 15.04.2020 in Crime No.240/2020 under Sections 379, 430 of Indian Penal Code and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 for the illegal transportation of one unit of Savudu soil in a farm land belongs to Perunjeri Vageeswarar temple in a Mahindra Tractor bearing Registration No.TN-50-B-4180 without valid licence. The respondent-Police, while arresting the accused



Crl.R.C.No.786 of 2023

persons, seized the Tractor along with the properties. The petitioner is the owner of the vehicle. The vehicle is now in the custody of the respondent Police. If the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. During the pendency of the trial, the Tractor will lose its value due to depreciation, if it is kept in a open space. Therefore, the impugned order has to be set aside.

3.The learned Government Advocate (Crl.side) for the respondent objected to return the vehicle to the petitioner, as he may involve his vehicle in a similar type of offence.

4.I have considered the submissions made by the learned counsel for the petitioner as well as the learned Government Advocate (Crl.side) for the respondent.



CrI.R.C.No.786 of 2023

WEB COPY

5.On perusal of the records, the fact reveals that the case of the prosecution is that on 15.04.2020 at about 04.00 a.m, the respondent-Police went to farm land belongs to Perunjeri Vageeswarar Temple based on the secret information about the illegal transportation of soil in that place, where they found that the petitioner along with other accused were illegally extracting one (1) unit of Savudu Soil and loading in a tractor bearing Registration No. TN-50-B-4180. Immediately, the respondent police arrested the petitioner along with the other accused and remanded them to judicial custody. Based on the above, a case was registered in Perambur Police Station, Mayiladuthurai District in Crime No.240 of 2020 under Sections 379 and 430 of Indian Penal Code and 21(1) of Mines and Minerals (Development and Regulation) Act, 1957 against the accused persons. The petitioner has filed a CrI.M.P.No.1936 of 2020 on the file of the



Crl.R.C.No.786 of 2023

District and Sessions Court, Nagapattinam seeking interim custody of the vehicle. However, the said petition was dismissed on 24.01.2020. Challenging the said order, the petitioner has filed this criminal revision.

6.Considering the nature of the case that the petitioner is the owner of the tractor and 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 and the value of the vehicle is diminished and continuing to keep the vehicle in open air would make the vehicle unusable, this Court is inclined to grant interim custody of the vehicle to the petitioner.

7.At this juncture, it is relevant to rely upon a decision of the ***Hon'ble Supreme Court in Sunderbhai Ambalal Desai and others***



Crl.R.C.No.786 of 2023

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



Crl.R.C.No.786 of 2023

*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 case similar in nature previously, this Court is inclined to allow the Criminal Revision Case.



Crl.R.C.No.786 of 2023

WEB COPY

8. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 24.07.2020 passed in Crl.M.P.No.1936 of 2020 by the learned District and Sessions Judge, Nagapattinam is set aside. The learned Judge shall not insist upon the solvency certificate from the petitioner at the time of getting interim custody of the vehicle. The respondent police is directed to return the vehicle to the owner of the vehicle on the following conditions.

- i. the petitioner shall prove his ownership of the Tractor bearing Registration No. TN-50-B-4180 by producing the R.C.Book and other relevant records;
- ii. the petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees five 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 vehicle and such panchanama can be used in evidence.



Crl.R.C.No.786 of 2023

- 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 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.

27.04.2023

Index: Yes/No
Internet: Yes/No
srn

To

1.The District and Sessions Judge at Nagapattinam.

9 of 11



Crl.R.C.No.786 of 2023

2. The Inspector of police,
Perambur Police Station, Mayiladuthurai District

3. The Public Prosecutor, Madras High Court.



WEB COPY



Crl.R.C.No.786 of 2023

V.SIVAGNANAM, J.,

srn

Crl.RC No.786 of 2023

27.04.2023