



Crl.R.C.No.284 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.02.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.284 of 2021

K.Saravanan,

... Petitioner

-VS-

State by Inspector of Police,
Kuthalam Police Station,
Nagapattinam District,
Crime No.1198 of 2020

... Respondent

PRAYER: Criminal Revision Case is filed under Section 397 and 401 of Cr.P.C.,
pleaded to set aside the order of dismissal made in Crl.M.P.No.3311 of 2020 dated
11.12.2020 on the file of the District and Sessions Judge, Nagapattinam, by
allowing this petition.

For Petitioner : Mr.M.Mariappan,

For Respondent : Mr.V. Meganathan
Govt. Advocate (Crl.Side)



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ORDER

Challenging the order of dismissal of the petitioner's application filed to return the vehicle passed by the District and Sessions Judge, Nagapattinam, in Crl.M.P.No.3311 of 2020, dated 11.10.2020, the present Revision has been filed.

2. The Learned Counsel for the petitioner submitted that the petitioner is the owner of the Tipper Lorry bearing registration number TN-50-2138 involved in illegal sand mining. In this case, First Information Report has been registered by the Inspector of Police attached to Kuthalam Police Station, Nagapattinam, for the offences under Sections 379 & 430 of I.P.C and Section 21 of Mines and Minerals (Development and Regulation) Act 1957. It appears that, no Final Report has been filed before the jurisdictional Magistrate in so far as the offences under Sections 379 & 430 IPC is concerned. The respondent police seized the vehicle for illegal transportation of 3 unit of sand and the petitioner is not an accused. Hence, he seeks to set aside the order passed by the Trial Court.



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3. Further, the learned counsel for the petitioner contended that the petitioner is the owner of the Tipper Lorry bearing Reg.No.TN-50-2138. The petitioner does not commit any similar type of offence and he is ready to abide any condition imposed by this Court. 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.

4. When the matter is taken up, the Learned Government Advocate (Crl.Side) for the respondent objected to return the vehicle. However, he submitted that the petitioner's vehicle was not involved in any previous case or similar type of offence. Hence, he prays to dismiss the petition.

5. I have considered the submissions made by the Learned Counsel for the petitioner and the Learned Government Advocate (Crl.side) for the respondent. Records perused.



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6. On perusal of records, the fact reveals that, the petitioner is the owner of the Tipper bearing Reg.No.TN-50-2138. Based on the complaint given by one R.Praveen Kumar, the respondent police intercepted vehicle and registered the case in Crime No.1198 of 2020 for the offences under Sections 379 & 430 of I.P.C and Section 21 of Mines and Minerals (Development and Regulation) Act 1957. Further, the respondent counsel stated that the vehicle was not involved in any similar type of offence and the petitioner has no previous case of this nature. Under such circumstances, the petitioner is entitled for interim custody of the vehicle.

7. At this juncture, it is relevant to rely upon 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*** 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



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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



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

8. Considering the nature of the offences involved and also considering the dictum laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai*** (cited supra), I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

9. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-50-2138, to temporary custody of the petitioner, on complying 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 not alienate or encumber the vehicle in any manner;
- iii. **The petitioner shall execute a bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) before the District and Sessions Judge, Nagapattinam.**



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- iv. The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
- v. The petitioner shall take photograph of the vehicle; and
- vi. 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 Case is allowed.

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Index :Yes/No.

Internet :Yes/No.

bsm

To,

1. The Learned District and Sessions Judge, Nagapattinam.
2. The Inspector of Police, Kuthalam Police Station, Nagapattinam District,
3. The Public Prosecutor, High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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