



CrI.R.C.No.822 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 01.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.822 OF 2023

Veerapandi

.. Petitioner

Vs

The State,  
represented by its Inspector of Police,  
Ulundurpet Police Station,  
Kallakurichi District

... Respondent

Prayer: Criminal Revision Case filed under section 397 r/w.401 Cr.P.C. to set aside the order passed by the learned Judicial Magistrate No.I, Ulundurpet in C.M.P.No.1742 of 2023 dated 05.04.2023 and subsequently grant custody of vehicle Ashok Leyland Tipper Lorry bearing Regn.No.TN 59 AA 7882.

For Petitioner : Mr. S. Saravanakumar

For Respondent : Mr. R. Vinothraja, GA (crl.side)



CrI.R.C.No.822 of 2023

## ORDER

WEB COPY

This Criminal Revision case has been filed challenging the order of dismissal dated 05.04.2023 passed by the Judicial Magistrate No.I, Ulundurpet in C.M.P.No.1742 of 2023 seeking interim custody of the vehicle viz.,Ashok Leyland Tipper Lorry bearing Regn.No.TN 59 AA 7882 to the petitioner.

2.The fact of the case is that the petitioner is the owner of the Ashok Leyland Tipper Lorry bearing Regn.No.TN 59 AA 7882. The respondent police has registered a case in Cr.No.114/2023 against the driver of the above said vehicle for the offence under section 379 of IPC alleging that the driver of the vehicle was indulged in illegal transportation of one unit of pebble stones without valid permit. Pursuant to which, the vehicle was seized alleging that the vehicle has been engaged in illegal transportation of pebble stones. Since the petitioner is the owner of the vehicle, he filed a petition in C.M.P.No.1742 of 2023 before the Judicial Magistrate No.I, Ulundurpet, seeking return of vehicle. The trial court dismissed the petition on the ground



Crl.R.C.No.822 of 2023

WEB COPY

that investigation is pending and illegal transportation of pebbles mixed with clay is rampant in our State.

3.The learned counsel for the petitioner submitted that the vehicle is not involved in any previous case of offence of similar in nature. The vehicle has been kept under the custody of the court from 21.03.2023 in C.P.No.57 of 2023 and if the vehicle is kept in open space under unconditional weather conditions, the same would depreciate its value and user capacity.

4. Further, the learned counsel for the petitioner contended that no purpose will be served in keeping the vehicle under the custody of respondent police and if the vehicle is kept for a long time in the open space, it would cause damage to the vehicle. The petitioner is ready to give appropriate guarantee as well as security for return of vehicle and also he will produce the vehicle, as and when required either before the respondent police or before the trial court. Hence, he prayed to return the vehicle and he is ready to obey any condition imposed on him by this Court.



CrI.R.C.No.822 of 2023

WEB COPY

5. The learned Govt. Advocate (CrIside) objected to return of vehicle, stating that the vehicle was used for illegal transportation of one unit of pebble stones and if the vehicle is ordered to be returned, he may use the vehicle for committing the same offence. He fairly conceded that the vehicle is not involved in any previous case of similar in nature.

6. Heard both sides and perused the entire materials available on record.

7. A perusal of the records would reveal that the respondent police, on 26.02.2023, received a complaint from the officials of Geology and Mining Department alleging that while they conducted inspection at 6.30 a.m. near Mariamman Temple, Madhiyanur Village, they found that the Tipper Lorry bearing Regn.No.TN 59 AA 7882 was engaged in illegal transportation of one unit of pebble stones without valid permit. On seeing them, the driver of the lorry escaped from the spot. Pursuant to which, they seized the above said vehicle involved in the offence and registered a case against the owner of such vehicle in Cr.No.114 of 2023 for the offence under section 379 of IPC.



Crl.R.C.No.822 of 2023

WEB COPY

The petitioner is the owner of the Tipper Lorry bearing Regn.No.TN 59 AA 7882. After seizure, the vehicle has been kept under the custody of the court below from 21.03.2023 in C.P.No.57 of 2023

8. Perusal of records would further reveal that the petitioner is the owner of vehicle and he is ready to give guarantee and security for returning the vehicle. If the vehicle is being kept in an 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. Further, the Honourable Supreme Court in the case of ***Sunderbhai Ambalal Desai and others Vs.State of Gujarat in Special Leave Petition (crl.) 2745 of 2022*** dated 01.10.2002, has held that in order to protect the property, the Apex Court has directed to handover the seized articles to the owner on proper Panchnama.

9. Considering the above aspects and also the ratio laid down by the Hon'ble Apex Court, this Court is of the view that keeping the vehicle idle in



Crl.R.C.No.822 of 2023

WEB COPY

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.

10. In the result, this Criminal Revision Case is allowed and the impugned order passed by the Trial Court is set aside. The interim custody of the vehicle viz., Ashok Leyland Tipper Lorry bearing Regn.No.TN 59 AA 7882 is ordered to be handed over to the petitioner, who is the owner of the vehicle 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 personal bond for a sum of Rs.8,00,000/-(Rupees eight lakhs only) before the Judicial Magistrate No.I, Ulundurpet.
- iii. The abovesaid court is directed not to insist upon the petitioner for producing solvency certificate while releasing the vehicle.
- iv. The Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle and such panchanama can be used in evidence.



CrI.R.C.No.822 of 2023

WEB COPY

v. the petitioner may take photograph of the vehicle and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.

vi.the petitioner shall not alienate or encumber the vehicle in any manner;

vii.the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;

viii.the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

01.06.2023

msr

Index: yes/no

Internet:yes/no

To

1. The Judicial Magistrate No.I, Ulundurpet

2.The Inspector of Police,  
Ulundurpet Police Station,  
Kallakurichi District

3. The Public Prosecutor,  
Madras High Court.



WEB COPY



CrI.R.C.No.822 of 2023

**V. SIVAGNANAM, J.**

msr

**CRL.R.C.NO.822 OF 2023**

01.06.2023