



IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 15.06.2023

CORAM:

THE HONOURABLE MR. JUSTICE G.CHANDRASEKHARAN

Crl.O.P.Nos.12803 & 12650 of 2023

B.Selvaraj

... Petitioner in both Crl.O.P's

Vs.

State Represented by the Inspector of Police,
Periyanaickenpalayam Police Station,
Coimbatore

Crime No.798 of 2022

... Respondent in both Crl.O.P's

PRAYER in Crl.O.P.No.12803 of 2023: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 28.04.2023 passed by the learned IV Additional District and Sessions Court, Coimbatore in C.R.P.No.14 of 2023 dismissing the Revision Petition and confirming the order dated 14.02.2023 passed by the learned Judicial Magistrate No.V, Coimbatore in Crl.M.P.No.3514 of 2023 in Crime No.798 of 2022.

PRAYER in Crl.O.P.No.12650 of 2023: Criminal Original Petition filed under Section 482 Cr.P.C. praying to set aside the order dated 28.04.2023 passed by the learned IV Additional District and Sessions Court, Coimbatore in C.R.P.No.13 of 2023 dismissing the Revision Petition and confirming the order dated 27.12.2022 passed by the learned Judicial Magistrate No.6, Coimbatore in Crl.M.P.No.43055 of 2022 in Crime No.798 of 2022 and consequently issue direction for delivery of the tipper lorry bearing Reg.No.TN 37 BT 2374 to the Revision Petitioner.



For Petitioner : M/s. H.Nandhini
For Respondent : Mr.Leonard Arul Joseph Selvam
Government Advocate (Crl. Side)

ORDER

These Criminal Original Petitions have been filed to set aside the order dated 28.04.2023 passed by the learned IV Additional District and Sessions Court, Coimbatore in C.R.P.No.14 of 2023 and C.R.P.No.13 of 2023 dismissing the Revision Petition and confirming the order dated 14.02.2023 & 27.12.2022 passed by the learned Judicial Magistrate No.V, Coimbatore in Crl.M.P.No.3514 of 2023 & Crl.M.P.No.43055 of 2022 in Crime No.798 of 2022.

2. It is the submission of the learned counsel for the petitioner that, petitioner is the owner of the vehicles bearing Reg.No.TN 37 BT 2374 and TN 38 BF 3377. Petitioner engaged two drivers and decided to lease out these two vehicles. One Rekha undertook land levelling work in a patta land in S.No.1477, which is situated near the foot hill of Kataji hill in Gudalur North Village. Therefore, she hired these vehicles for land levelling work in the low level area of her land. However, the respondent police registered a case in Crime No.798 of 2022 for the offence under Section 379 of IPC for alleged theft of gravel sand. She further submitted that, petitioner has not involved in the alleged theft of



gravel sand and has no knowledge that his vehicles were used for transporting gravel sand. Petitioner filed C.M.P.No.3513 of 2023 and C.M.P.No.3514 of 2023 under Section 451 of Cr.P.C for return of the aforesaid vehicles. Both the petitions were dismissed. Challenging the dismissal order, petitioner filed C.R.P.No.13 of 203 and Cr.R.P.No.14 of 2023. However, both the revision petitions were dismissed. Therefore, present petition is filed.

3. It is the further submission of the learned counsel for the petitioner that, Hon'ble Supreme Court of India in **Sunderbhal Ambalal Desai Vs. State of Gujarat in SLP (Crl) No.2745 of 2002** has observed that, there is no use of keeping the seized vehicles at the police station for a long period. The Magistrate shall 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. Thus, the learned counsel for the petitioner prays for return of aforesaid vehicles.

4. The learned Government Advocate (crl. Side) opposes the petition on the ground that, if the vehicles are returned, petitioner may use the vehicles for committing similar offence. Thus, he prays for dismissal of the petition.



WEB COPY

5. Considered the rival submissions and perused the records. The aforesaid vehicles were seized from the respondent on 28.10.2022 and kept in police station till now. As submitted by the learned counsel for the petitioner, Hon'ble Supreme Court of India in **Sunderbhal Ambalal Desai Vs. State of Gujarat in SLP (Crl) No.2745 of 2002** has observed that, there is no use of keeping the seized vehicles involved in a criminal offence at the police station for a long period. It appears that, no action was taken by the respondent police or any other authorities in connection with the confiscation of the vehicles. It is no doubt that, if vehicle is kept in the open place, the vehicle will be exposed to sun light, rain and dust and thereby it would become waste in due course of time.

6. In this view of the matter, the order of the learned IV Additional District and Sessions Court, Coimbatore in C.R.P.No.13 of 2023 and C.R.P.No.14 of 2023 is hereby set aside. The respondent is directed to hand over the interim custody of the vehicles to the petitioner subject to the following conditions:

i) The petitioner shall execute a bond for a sum of **Rs.50,000/- (Rupees Fifty Thousand only)** with two sureties for a like sum to the satisfaction of the learned Judicial Magistrate, No.5, Coimbatore. On such execution, the petitioner's vehicles shall be immediately released to the custody of the petitioner.



WEB COPY

ii) The petitioner shall produce the Original RC Book of each of the vehicle, before the Trial Court or Confiscation Authority. The RC book of each of the vehicles shall be retained by the Trial Court/Confiscation Authority till the disposal of the trial or until further orders from this Court.

iii) The petitioner shall file an affidavit of undertaking that he will not dispose or alter the physical features of the vehicle and that he will produce the vehicle before the Trial Court or the Confiscation Authority as and when required by the Trial Court or the Investigating Agency.

iv) The respondents are at liberty to proceed further with the confiscation proceedings and the order passed in this revision will not be a bar to the authorities in proceeding with the confiscation proceedings.

(v) The petitioner shall participate in the confiscation proceedings, if any initiated, and shall produce the vehicles, before the confiscation authority. This order is subjected to the confiscation proceedings.

7. Accordingly, these Criminal Original Petitions stands Allowed.

15.06.2023

Index: Yes/No

Speaking/Non speaking order

Sma



WEB COPY



G.CHANDRASEKHARAN,J.

Sma

Crl.O.P.Nos.12803 & 12650 of 2023

15.06.2023