



Crl.R.C.Nos.1173 and 1181 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

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

Crl.R.C.Nos.1173 and 1181 of 2023

C.Sundar
Ambayi

... Petitioner in Crl.R.C.No.1173 of 2023
... Petitioner in Crl.R.C.No.1181 of 2023

Vs.

The State Rep. by
the Inspector of Police,
Tittagudi Police Station,
Cuddalore District.
Crime No.104/2022

... Respondent in both Crl.R.Cs

Common Prayer : Criminal Revision Cases filed under Section 397 r/w. 401 of Criminal Procedure Code, to call for the records and set aside the order passed by the learned Principal District and Sessions Court, Cuddalore in Crl.M.P.No.3792 of 2022 and Crl.M.P.No.3789 of 2022 dated 18.10.2022.

For Petitioner

in both cases : Mr.K.Karuppaiya mooppanar

For Respondent

in both cases : Mr.R.Vinothraja, GA (Crl. Side)



Crl.R.C.Nos.1173 and 1181 of 2023

COMMON ORDER

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Challenging the orders, dated 18.10.2022 passed in Crl.M.P.No.3792 of 2022 and Crl.M.P.No.3789 of 2022 by the learned Principal District and Sessions Judge, Cuddalore, the present Criminal Revision Cases are filed by the petitioners.

2. The revision petitioners filed the petitions in Crl.M.P.No.3792 of 2022 and Crl.M.P.No.3789 of 2022 under Section 451 of Cr.P.C., seeking interim custody of the vehicles viz., XL Heavy bearing registration Nos.TN 77 M 4712 and TN 91 AY 0094. The said petitions were dismissed by the learned Principal District and Sessions Court, Cuddalore on 18.10.2022 on the ground that the vehicle was involved in illegal transportation of river sand, aggrieved over which the present revision cases are filed.

3. Mr.K.Karuppaiya Mooppanar, learned counsel for the petitioners would contend that the accused are innocent and if the seized vehicles are kept in an open space the value of the vehicles would diminish over a period of time.



Crl.R.C.Nos.1173 and 1181 of 2023

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4. Mr.R.Vinothraja, learned Government Advocate (Crl. side) appearing for the respondent contended that the vehicles were used for illegal transportation of river sand and if the vehicles are ordered to be returned, the accused may use the vehicles for committing similar offence. He therefore, sought for dismissal of the petitions.

5. In this back drop, it is relevant to refer a decision of the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai and others Vs. State of Gujarat*** reported in (2002) 10 SCC 283, in which it is held thus:

“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.



Crl.R.C.Nos.1173 and 1181 of 2023

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.”

6. It is true that keeping the vehicles idle in an open space, would definitely impair the value of the vehicles over a period of time. As such, considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to grant interim custody of the vehicles to the petitioners.



Crl.R.C.Nos.1173 and 1181 of 2023

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7. Accordingly, both the Criminal Revision Cases are allowed and the impugned orders in Crl.M.P.No.3792 of 2022 and Crl.M.P.No.3789 of 2022 dated 18.10.2022 passed by the learned Principal District and Sessions Judge, Cuddalore, are set aside and the interim custody of the vehicles are given to the petitioners on the following conditions :

- i. The petitioners shall prove the ownership of their respective vehicles by producing R.C.Book and other relevant records;
- ii. The R.C. books shall be deposited in the Court and the Court shall issue a certificate in this regard.
- iii. The petitioners shall execute a bond for a sum of Rs.2,00,000/- (Rupees two lakhs Only) before the trial Court.
- iv. The Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicles bearing Registration Nos. TN 77 M 4712 and TN 91 AY 0094 and such panchanama can be used in evidence.
- v. The Court shall take photograph of the vehicles bearing



Crl.R.C.Nos.1173 and 1181 of 2023

Registration Nos.TN 77 M 4712 and TN 91 AY 0094 and certify the same under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.

- vi. The petitioners shall not alienate or encumber the vehicles in any manner whatsoever;
- vii. The petitioners shall give an undertaking that they would not use the vehicles for any illegal activities in future; and
- viii. The petitioners shall also produce the vehicles as and when required by the court below and by the respondent police.

02.08.2023

Index: Yes/No
Speaking/Non-Speaking order
vum

To

1. The Principal District and Sessions Court, Cuddalore.
2. The Inspector of Police,
Tittagudi Police Station,
Cuddalore District.



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Crl.R.C.Nos.1173 and 1181 of 2023

R. HEMALATHA, J.

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Crl.R.C.Nos.1173 and 1181 of 2023

02.08.2023