



Crl.R.C.No.1125 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM

THE HONOURABLE MR. JUSTICE V. SIVAGNANAM

CRL.R.C.NO.1125 OF 2023

Velmurugan

.. Petitioner

Vs

The State, represented by
its Sub-Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
Cr.No.182/2023

... 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 FAC, Virudhachalam in Crl.M.P.No.1425 of 2023 dated 12.05.2023 and subsequently grant custody of vehicle Ashok Leyland Tipper Lorry bearing Registration No.TN 31 AQ 1539.

For Petitioner : Mr.S. Saravanakumar

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



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ORDER

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This Criminal Revision case has been filed challenging the order of dismissal dated 12.05.2023 passed by the Judicial Magistrate No.I, FAC, Vridhachalam in Cr.M.P.No.1425 of 2023 seeking interim custody of the vehicle viz., Ashok Leyland Tipper Lorry bearing Regn.No.TN 31 AQ 1539 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 31 AQ 1539. The respondent police registered a case in Cr.No.182/2023 on 17.04.2023 for the offence under section 379 IPC r/w.Section 21(1) of Mines and Minerals (Development and Regulation) Act 1957 against the petitioner for illegal transportation of 3 units of pebble stones without any valid permit. Pursuant to which, they have seized the above said vehicle alleging that the vehicle has been engaged in illegal transportation of pebble stones. Now the vehicle was kept under the custody of the court below in C.P.No.25 of 2023. Since the petitioner is the owner of the vehicle, he filed a petition in Crl.M.P.No.1425 of 2023 before the



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Judicial Magistrate No.I, FAC, Vridhachalam for return of property in C.P.No.1425 of 2023. The trial court dismissed the petition on the ground that in view of the decision laid down by this Court in *Muthu Vs. State*, the matter relating return of vehicle involved in pebbles theft has to be made only before the designated court and in view of the same, the petition is not maintainable.

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 17.04.2023 in C.P.No.25 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



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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.

5. The learned Govt. Advocate (Crlside) objected to return of vehicle, stating that the vehicle was used for illegal transportation of pebble stones sand and if the vehicle is ordered to be returned, he may use the vehicle for committing 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 officials of Geology and Mining Department, Cuddalore, while conducting inspection, seized a Tipper Lorry bearing Regn.No.TN 31 AQ 1539 for illegally transporting 3 units of pebble stones without valid permit. Pursuant to which, a complaint was lodged by Assistant Director, Geology and Mining Department and on



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receipt of complaint, a case was registered against the petitioner/owner of the vehicle in Cr.No.182 of 2023 for the offence under section 379 IPC and 21(1) Mines and Minerals (Development and Regulation Act) by the respondent police and thereafter on production of the vehicle before the Judicial Magistrate No.I, (FAC), Vridhachalam, the same was kept under the custody of C.P.No.25 of 2023. The petitioner is the owner of the Tipper Lorry bearing Regn.No.TN 31 AQ 1539 and after seizure, the vehicle was produced before the court below and it has been kept under custody from 17.04.2023 onwards.

8. Perusal of records would further reveal that the petitioner being the owner of the vehicle 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***



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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 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., Tipper Lorry bearing Regn.No.TN 31 AQ 1539 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;



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V. SIVAGNANAM, J.

msr

To

1. The Judicial Magistrate No.I, (FAC), Vridhachalam
- 2.The Sub-Inspector of Police,
Virudhachalam Police Station,
Cuddalore District.
3. The Public Prosecutor,
Madras High Court.

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