



Crl.R.C.No.1234 of 2023

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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2023

CORAM

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

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Arjunan

... Petitioner

Vs.

State Rep. by  
the Inspector of Police,  
Keelvelur Police Station,  
Nagapattinam District.  
(Crime No.350/2019)

... Respondent

Prayer : Criminal Revision Petition filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed in Crl.M.P.No.4410 of 2022 on the file of the Principal District and Sessions Judge, Nagapattinam, dated 23.12.2022 and grant interim custody of the vehicle bearing Reg.No.TN 51 U 3427 in favour of the petitioner.

For Petitioner : Mr.U.Kathiravan

For Respondent : Mr.R.vinothraja, GA (Crl. Side)



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**ORDER**

Challenging the orders, dated 23.12.2022 in Crl.M.P.No.4410 of 2022 on the file of the Principal District and Sessions Judge, Nagapattinam, the present Criminal Revision is filed.

2. The petitioner/A2 filed Crl.M.P.No.4410 of 2022 under Sections 451 / 457 of Cr.P.C., seeking for return of the vehicle viz., the Tractor with trailer bearing Registration No.TN 51 U 3427 which was seized by the respondent, Inspector of Police, Keelvelur Police Station, Nagapattinam District in connection with Crime No.350/2019 for the alleged offences punishable under Sections 379 and 430 I.P.C., r/w. Section 21 (1) of Mines and Minerals (Development and Regulation) Act, 1957. The said petition was dismissed by the Principal District and Sessions Judge, Nagapattinam on 23.12.2022 on the ground that the vehicle was involved in the commission of an offence under Mines and Minerals Act.



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3. Heard, Mr.U.Kathiravan, learned counsel for the revision petitioner and Mr.R.Vinothraja, learned Government Advocate (Crl. Side) learned counsel for the respondent.

4. The learned counsel for the revision petitioner contended that if the vehicle is kept in open space in the Police station, the value of the vehicle would diminish over a period of time. Therefore, he prayed for return of the vehicle.

5. Per contra, the learned Government Advocate (Crl. side) contended that the vehicle was used for illegal transporting of one unit of Savadu sand and if the vehicle is ordered to be returned, he may use the vehicle for committing similar offence. He further contended that confiscation proceedings have not been initiated and there are no bad antecedents as against the petitioner. However, he sought for dismissal of the petition.



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6. It is relevant to refer 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*, wherein, it is held thus:

***Vehicles***

*“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.*

*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*



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*any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”*

7. In the light of the above decision and considering the facts and circumstances of the case, the vehicle may be returned to the petitioner with certain conditions. Accordingly, this Criminal Revision Petition is allowed and the impugned order dated 23.12.2022 passed by the learned Principal District and Sessions Judge, Nagapattinam is set aside. The Principal District and Sessions Judge, Nagapattinam, is directed to return the vehicle to 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 bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Principal District and Sessions Judge, Nagapattinam.
- iii) the Court may prepare a panchnama in Judicial Form No.82 with regard to the vehicle viz., Tractor with trailer bearing Registration No.TN 51 U 3427 and such panchanama can be used in evidence.



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- iv) the petitioner shall take photograph of the vehicle bearing registration No. TN 51 U 3427 and certified under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- v) the petitioner shall not alienate or encumber the vehicle in any manner;
- vi) the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
- vii) the petitioner shall also produce the vehicle as and when required by the court below and by the respondent police.

**02.08.2023**

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



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To

- 1.The Principal District and Sessions Judge,  
Nagapattinam.
- 2.The Inspector of Police,  
Keelvelur Police Station,  
Nagapattinam District.
3. The Section Officer,  
Criminal Section, High Court,  
Madras.



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**R. HEMALATHA, J.**

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