



Crl.R.C.No.1403 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.09.2023

CORAM

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

Crl.R.C.No.1403 of 2023

G.Abraham

... Petitioner

Vs.

1.The State Rep. by  
The Inspector of Police  
Gangavalli Police Station  
Gangavalli Taluk, Salem District.  
(Crime No.569 of 2020)

2.The Manager,  
Indusland Bank Ltd.,  
No.34, G.N.Chetty Road,  
T.Nagar, Chennai - 600 017.

... Respondents

Prayer : Criminal Revision Case filed under Section 397 of Criminal Procedure Code, to set aside the orders dated 23.12.2022 in Crl.M.P.No.3312/2022 on the file of the learned Principal Sessions Judge, Salem.

For Petitioner : Mr.T.Velu

For R1 : Mr.R.Vinothraja, GA (Crl. Side)



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**ORDER**

Challenging the orders dated 23.12.2022 in Crl.M.P.No.3312 of 2022 on the file of the learned Principal Sessions Judge, Salem, the present Criminal Revision is filed.

2. The revision petitioner is the owner of the vehicle, viz., Mahendira & Mahendira Bolero Pickup bearing Registration No.TN-77-K-7053, which was seized by the first respondent police in connection with Crime No.569/2020 of Gangavalli Police Station, Salem District, for the offences punishable under Sections 379 IPC r/w. 21 (1) of Mines and Minerals (Development & Regulations) Act, 1957. The present petitioner filed a petition in Crl.M.P.No.3312 of 2022 under Section 451 Cr.P.C., before the learned Principal Sessions Judge, Salem, seeking interim custody of the said vehicle and the petition was dismissed by the learned Principal Sessions Judge, Salem, on 23.12.2022 on the ground that the vehicle was involved in illegal transportation of river sand. Aggrieved over the said orders, the present criminal revision case is filed.



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3. Mr.T.Velu, learned counsel for the petitioner contended that the petitioner is the owner of the vehicle and that he is not connected with the crime. According to him, if the vehicle is kept in an open space, the value of the vehicle would diminish over a period of time. He therefore prayed for return of the same.

4.Mr.R.Vinothraja, learned Government Advocate (Crl. Side) did not raise any serious objection to return the vehicle to the present revision petitioner.

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.*

*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 vehicle idle in an open space, would definitely impair the value of the vehicle 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 vehicle to the petitioner.



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7. Accordingly, the Criminal Revision Case is allowed and the impugned order dated 23.12.2022 passed by the learned Principal Sessions Judge, Salem in Crl.M.P.No.3312 of 2022 is set aside and the interim custody of the vehicle is given to the petitioner on the following conditions :

- i. The petitioner shall prove the ownership of his vehicle by producing R.C.Book and other relevant records;
- ii. The R.C. book shall be deposited in the Court and the Court shall issue certificate in this regard.
- iii. The petitioner 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 vehicle bearing Registration No.TN-77-K-7053 and such panchanama can be used in evidence.
- v. The Court shall take photograph of the vehicle bearing



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Registration No.TN-77-K-7053 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 petitioner shall not alienate or encumber the vehicle in any manner whatsoever;
- vii. The petitioner shall give an undertaking that he would not use the vehicle for any illegal activities in future; and
- viii. The petitioner shall also produce the vehicle as and when required by the court below and by the first respondent police.

**07.09.2023**

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

To

1. The State Rep. by  
The Inspector of Police  
Gangavalli Police Station  
Gangavalli Taluk, Salem District.  
(Crime No.569 of 2020)

2. The Principal Sessions Court, Salem.



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**R. HEMALATHA, J.**  
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