



WEB COPY



Crl.O.P No.25681 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11.07.2023

CORAM

THE HONOURABLE MR. JUSTICE N. ANAND VENKATESH

Crl.O.P No.25681 of 2022

Sushant Singh
S/o.Subhash Chandra Singh

... Petitioner

VS.

State represented by
Inspector of Police,
C5, Oragadam Police Station,
Kanchipuram District.
Crime No.583 of 2021

... Respondent

PRAYER: Criminal Original Petition filed under Section 482 of the Code of Criminal Procedure, praying to set aside the order dated 01.02.2022 in R.C.No.5 of 2021 on the file of Additional District Sessions Judge [Fast Track Court], Kancheepuram, by confirming the order of learned Judicial Magistrate, Sriperumbudur, dated 04.12.2021 in C.M.P.No.2602 of 2021.

For Petitioner : Mr.N.Kamaraj

For Respondent : Mr.A.Gopinath
Government Advocate [Crl.side]



Crl.O.P No.25681 of 2022

ORDER

This petition has been filed challenging the order passed by the learned Additional District and Sessions Judge [Fast Track Court], Kancheepuram, in R.C.No.5 of 2021, dated 01.02.2022, confirming the order passed by learned Judicial Magistrate, Sriperumbudur in CMP No.2602 of 2021, dated 04.12.2021, dismissing the petition filed by the petitioner seeking for the custody of the vehicle.

2. The petitioner is the Manager of M/s.Auto Logistics India Limited and on 15.09.2021 at about 08.30 a.m., the driver of the lorry was reversing the vehicle and at that point of time, the vehicle ran over both the legs of the deceased. The deceased ultimately died after ten days. Initially, the First Information Report was registered for offences u/s.279 and 337 IPC and subsequently, it was altered to Sections 279 and 304-A IPC in Crime No.583 of 2021. In the course of investigation, the lorry was also seized by the respondent police.

3. M/s.Auto Logistics India Limited, New Delhi, is the owner of the lorry and the petitioner, who is the Manager of the company filed an application before the Magistrate Court seeking for interim custody of the lorry. Learned



Crl.O.P No.25681 of 2022

Magistrate dismissed the application mainly on the ground that investigation is at preliminary stage and the lorry has to be inspected by the Motor Vehicles Inspector and hence, the learned Magistrate was not inclined to grant interim custody of the lorry to the petitioner. The revisional Court confirmed the order passed by learned Magistrate on the very same ground and a finding was rendered to the effect that if the lorry is released, there will be no progress in the investigation.

4. When the matter came up for hearing on 07.07.2023, this Court directed the learned Government Advocate [Crl.side] to take instructions and report before this Court as to whether the Motor Vehicle Inspector has conducted the inspection and has issued the report. Accordingly, the matter stood posted for hearing today.

5. Learned Government Advocate [Crl.side] handed over the inspection report of the Motor Vehicle Inspector. It is seen that the vehicle has been inspected and a report has been given to the effect that the vehicle does not suffer from any mechanical defect.



6. The vehicle has been in the custody of the respondent police from the year 2021. It is exposed to rain and shine and ultimately, it will become a scrap if it continues to remain in the custody of the respondent police.

7. Learned Government Advocate [Crl.side], on instructions, submitted that the driver of the vehicle is absconding and that he belongs to Uttar Pradesh and the investigation officer is not able to complete the investigation due to abscondance of the driver.

8. In the considered view of this Court, by keeping the lorry in custody, no useful purpose will be served. The lorry cannot be kept in custody just because the driver has absconded. There must be some purpose in retaining the lorry. Already, the lorry has been seized and the Motor Vehicle Inspector Report has been obtained and it is more than 1½ years since the lorry has been in custody exposed to rain and shine. Even if the driver of the lorry is absconding, it is always left open to the prosecution to record the statements of all witnesses including the owner of the lorry and file an absconding charge sheet before the concerned Court.



9. In the light of the above discussion, this Court is inclined to grant interim custody of the vehicle to the petitioner. The apprehension raised by the respondent police is that the petitioner is helping the accused person in absconding and that the petitioner is not cooperating to secure the accused person.

10. Learned counsel for petitioner submitted that the driver belongs to Faridabad at Uttar Pradesh and that the petitioner will render assistance to the respondent police to secure the accused person. This undertaking given by the petitioner is recorded. The respondent police shall proceed further to record the statement of the owner of the vehicle u/s.161 Cr.P.C.

11. This Criminal Original Petition is disposed of in the following terms:

- (a) the petitioner is directed to execute a bond for a sum of Rs.1,00,000/- [Rupees one lakh only] along with two sureties for a like sum;
- (b) the learned Magistrate shall take steps to take photographs of the vehicle and prepare a panchnama as directed by this Court in *Selvam v. State* [2012 (2) CTC 549].
- (c) the petitioner shall give an undertaking affidavit before the learned Magistrate to the effect that they will co-operate for the investigation in



Crl.O.P No.25681 of 2022

N. ANAND VENKATESH., J
gm

securing the accused person.

(d) the petitioner shall also give an undertaking before the Court below that the vehicle will not be sold or disposed of without getting a proper permission from the Court below.

(e) the petitioner shall also produce the original RC Book of the vehicle as and when required by the Court below.

11.07.2023

Index : Yes/No
Speaking Order/Non-Speaking Order
Neutral citation : Yes/No
gm

To

1. The Additional District Sessions Judge [Fast Track Court],
Kancheepuram.

2. The Judicial Magistrate, Sriperumbudur.

3. The Inspector of Police,
C5, Oragadam Police Station,
Kanchipuram District.
Crime No.583 of 2021

4. The Public Prosecutor,
High Court of Madras,
Madras.

Crl.O.P No.25681 of 2022