



Crl.RC.No.1416 of 2023

Crl.RC.No.1416 of 2023

WEB COPY

M. NIRMAL KUMAR, J.

Today, the matter is listed under the caption “For Being Mentioned” at the instance of the learned counsel for the petitioner.

2.Learned counsel for the petitioner submits that he filed a petition seeking return of Ashok Leyland Ecomet. He would further submit that in the petition, the vehicle number has been wrongly given as TN 28 DD 9826 which is not correct and the correct number of the vehicle is TN 28 BD 9826 as could be seen from the Registration Certificate as well as the order of the Lower Court.

3.In view of the above, in paragraph Nos.2 and 8 of the order passed in Crl.RC.No.1416 of 2023 dated 07.11.2023, the vehicle number shall be substituted as 'TN 28 BD 9826' instead of 'TN 28 DD 9826'.



WEB COPY



Crl.RC.No.1416 of 2023

M. NIRMAL KUMAR, J.

cse

4.It is made clear that in all other respects, the order dated 07.11.2023, shall remain unaltered.

5. The issue is clarified, accordingly.

6.The Registry is directed to carry out the correction in the order dated 07.11.2023 and issue a fresh copy of the order, in accordance with law.

16.11.2023

cse

Note: Issue order copy on 20.11.2023.

Crl.RC.No.1416 of 2023



WEB COPY



Crl.RC.No.1416 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM

THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1416 of 2023

Ramasamy

... Petitioner

Vs.

State Represented by
Inspector of Police,
Madukkarai Police Station,
Coimbatore District.
(Crime No.226 of 2022).
... Respondent

PRAYER: Criminal Revision Petition filed under Sections 397 r/w 401 of Criminal Procedure Code, to set-aside the order dated 17.07.2023 made in Crl.M.P.No.2445 of 2023 in Crime No.226 of 2022, on the file of District Munsif cum Judicial Magistrate, Madukkarai.

For Petitioner : Mr.W.Camyles Gandhi

For Respondent : Mr.A.Damodaran,
Additional

Public Prosecutor

ORDER



Crl.RC.No.1416 of 2023

This Criminal Revision Case has been filed to set aside the impugned order, dated 17.07.2023 passed by the learned Judicial Magistrate, Madukkarai in Crl.M.P.No.2445 of 2023.

2.The petitioner, owner of the vehicle, namely, Ashok Leyland Ecomet 1214/47 bearing registration No.TN 28 DD 9826 filed a petition under Section 451 r/w 457 of Cr.P.C., before the learned Judicial Magistrate, Madukkarai to return the said vehicle which was seized in Crime No.226 of 2023, for offence under Sections 147, 278, 294(b), 323 and 506(ii) of IPC. The learned Magistrate dismissed the return of property petition *vide* order, dated 17.07.2023. Feeling aggrieved with the impugned order, the present Criminal Revision Case is filed.

3.The contention of the petitioner is that the petitioner is the owner of the above said vehicle, the allegation is that the petitioner's lorry transported medical wastages which is hazardous to the public health and safety and dumped the same near Madukkarai, Coimbatore District. Due to



Crl.RC.No.1416 of 2023

which, there was objection by the local public, quarrel arose and thereafter, information sent to the respondent Police. The driver was caught along with the vehicle and the above said case registered. As regards the petitioner is concerned, he entrusted the vehicle to the driver who on his own committed the alleged offence and the petitioner has got nothing to do with the transportation of wastages. The Court below dismissed the return of property petition on the ground that in future, the vehicle would be used for similar type of offence and whether the petitioner's vehicle is involved in similar offence or not in any other Police station, the same has to be verified. The petitioner's vehicle not involved in any other offence similar in nature. The learned counsel further submitted that the petitioner undertakes to file an affidavit before the Court below to the effect that the vehicle will not be used for transportation of banned/medical wastages or any other waste causing health and environmental hazardous in any manner. Hence, he prayed for setting aside the impugned order.

4.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the petitioner hails from Namakkal district



Crl.RC.No.1416 of 2023

and he had no reason to engage the lorry to Kerala and bring the waste and dump it near Madukkarai, Coimbatore district. Though the petitioner claims that he is a transporter, he failed to produce any document to show that the driver acted independently on his own without his knowledge. He further submitted that if the petitioner's vehicle is returned, he would commit offence similar in nature again. Hence, strongly objected the present revision.

5.Considering the submission and on perusal of the materials, it is seen that the petitioner is the owner of the above said lorry which is not disputed. It is seen that from the date of registration of FIR, the vehicle is kept in open space exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. The Hon'ble Apex Court in the case of ***“Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290”***, had given guidelines in the cases of return of property to the owner. The petitioner purchased the lorry by availing loan from the District



Crl.RC.No.1416 of 2023

Cooperative Bank Limited. The petitioner's earning depends upon the transportation of the vehicle. Due to such detention, he is unable to continue with his business.

6.To show his bonafide, the petitioner is willing to deposit a sum of Rs.50,000/- (Rupees fifty thousand only) to the College Students and Graduates Association of Blinds (CSGAB), Thakkar Bapa Vidyalaya, 58, Venkatanarayana Road, CIT Nagar East, T.Nagar, Chennai in Account No.10624893773, IFSC Code-SBIN0003307, State Bank of India, CIT Nagar Branch, Chennai.

7.In view of the aforesaid reasons, this court is constrained to set aside the order passed by the learned Judicial Magistrate, Madukkarai in Crl.M.P.No.2445 of 2023, dated 17.07.2023 and the criminal revision case is allowed.

8.The learned Judicial Magistrate, Madukkarai is directed to



Crl.RC.No.1416 of 2023

return the vehicle Ashok Leyland Ecomet 1214/47 bearing registration No.TN 28 DD 9826 to the petitioner after causing necessary photographs and panchnama, within a period of 7 days from the date of compliance of the below mentioned condition Nos.(ii) to (iii):-

(i)The petitioner shall deposit a sum of Rs.50,000/- (Rupees fifty thousand only) to the College Students and Graduates Association of Blinds (CSGAB), Thakkar Bapa Vidyalaya, 58, Venkatanarayana Road, CIT Nagar East, T.Nagar, Chennai in Account No.10624893773, IFSC Code-SBIN0003307, State Bank of India, CIT Nagar Branch, Chennai.

(ii)On such payment, the petitioner shall produce the proof of payment to the learned Judicial Magistrate, Madukkarai and thereafter, execute a personal bond for a sum of Rs.5,000/- (Rupees five thousand only) with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate, Madukkarai. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card.

(iii)The petitioner shall not alter or alienate the vehicle in question till the completion of Trial.

(iv)The petitioner shall take photograph of the vehicle and submit



CrI.RC.No.1416 of 2023

the same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(v)The petitioner shall submit a photostat copy of R.C.Book before the Judicial Magistrate, Madukkarai.

(vi) The petitioner shall produce the vehicle as and when directed to do so.

07.11.2023

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

Index : Yes/No

Internet : Yes/No

vv2

Note: Issue Order Copy on 10.11.2023.

To

1.The Judicial Magistrate Court,
Madukkarai.

2.The Inspector of Police,
Madukkarai Police Station,
Coimbatore District.

3.The Public Prosecutor,
High Court, Madras.

M.NIRMAL KUMAR, J.

vv2



WEB COPY



Crl.RC.No.1416 of 2023

Crl.R.C.No.1416 of 2023

07.11.2023