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Crl.R.C.No.1601 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 05.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1601 of 2022

Muthu

... Petitioner

Vs.

The State, represented by
Inspector of Police
Ramanatham Police Station,
Cuddalore District.

... Respondent

PRAYER: Criminal Miscellaneous Petition filed under Section 397 r/w.401 of Cr.P.C. to set aside the order of dismissal made in Crl.M.P.No.8720 of 2021 dated 19.10.2022 on the file of the Principal District Judge, Cuddalore by allowing this petition.

For Petitioner : Mr.S. Nedunchezhiyan

For Respondent : Mr.V. Meganathan
Gov. Advocate (Crl.Side)



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ORDER

Challenging the order, dismissing the petitioner's application filed under Section 451 of Cr.P.C, passed by the Principal District Judge, Cuddalore in Crl.M.P.No.8720 of 2021, dated 19.10.2022 to return the vehicle, the present Revision has been filed.

2. The learned counsel for the petitioner submitted that the petitioner is the owner of the vehicle Ashok Leyland Ltd., Tipper lorry bearing Registration No.TN-15-P-7135. The respondent police registered a case in Cr.No.276 of 2021 on 01.09.2021 for the offences punishable under section 379 of IPC and Section 21(1) of Mines and Minerals(Development and Regulation) Act, 1957 against the accused persons, pursuant to which, the vehicle has been seized by the respondent police and has been kept under the custody of the Judicial Magistrate, Thittakudi.

3. He further submitted that the vehicle has been kept under the



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custody of the Court from 01.09.2021 and the value of the same would be depreciated, if it is exposed to unconditional weather conditions. The petitioner will give an undertaking that he will not alienate the property and he will produce the vehicle as and when required before the Court below. Thus, he seeks to order for returning the vehicle.

4. The learned Govt. Advocate (crl.side) submitted that a case has been registered against the accused persons by the respondent police for the offence of illegal transportation of sand and this petitioner is the owner of the vehicle and he is not arrayed as an accused in Cr.No.276 of 2021. He also conceded that the vehicle is not involved in similar type of offence previously and objected to give interim custody of the vehicle.

5. Heard both sides and perused the materials available on record.

6. On perusal of records, it is revealed that on 1.9.2021 at about 2.30 p.m., while the Sub Collector and VAO of kanagambadi village along with



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his officials are patrolling, they found some people with the help of JCB, took gravel sand along the Kanagambadi village in two lorries. On seeing them, they escaped from the place of occurrence and left the vehicle. They seized two lorries, viz., Ashok Leyland bearing Registration No.TN-15-P-7135, in which they found 2 units of gravel and in another vehicle, which is a mini lorry bearing Registration No.TN 91 T 3660, no sand was found. Since the drivers of the vehicles escaped from the spot, they seized the vehicles and produced the same before the Ramanatham Police Station, pursuant to which, a case in Crime No.276 of 2021 was registered.

7. The petitioner claims that he is the owner of lorry bearing Regn.No.TN-15-P-7135. There is no previous antecedent with regard to the petitioner and the vehicle is not involved in any similar type of previous cases. In such circumstances, keeping the vehicle idle in open weather conditions, would cause damage and deteriorate the value of the same.

8. The Honourable Supreme Court in the case of ***Sunderbhai***



Ambalal Desai vs State Of Gujarat, in paragraph No.17 has held as follows:

"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."

9.Considering the nature of the offence involved and also considering the dictum of the Supreme Court cited supra, I am inclined to grant interim custody of the vehicle to the petitioner on certain conditions.

10. Accordingly, the impugned order passed by the Court below is set aside and the respondent police is directed to return the vehicle bearing Registration No. TN-15-P-7135 to temporary custody of the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing



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- the R.C.Book and other relevant records;
- ii. the petitioner shall not alienate or encumber the vehicle in any manner;
- iii. the petitioner shall execute a bond for a sum of Rs.3,00,000/- (Rupees three lakhs only) before the Judicial Magistrate, Thittakkudi;
- iv. the petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future;
- v. the petitioner shall take photograph of the vehicle; and
- vi. the petitioner shall also produce the vehicle as and when required before the court below and before the respondent police.

11. Accordingly, the Criminal Revision is allowed.

05.01.2023

msr

Index:yes/no

Internet:yes/no

To

1. The Principal District Judge, Cuddalore.
2. The Inspector of Police
Ramanatham Police Station,

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3. The Public Prosecutor,
High Court of Madras, Chennai.
4. The Judicial Magistrate, Thittakudi.

Note: Issue copy on 10.01.2023

V.SIVAGNANAM, J.,



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