



Crl.R.C.No.1652 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.08.2023

CORAM

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

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R.Veerapandian

... Petitioner

Vs.

The State Rep. by
the Sub-Inspector of Police,
Edaikkal Police Station,
Kallakurichi District.
Crime No.144/2022

... Respondent

Prayer : Criminal Revision Case filed under Section 397 r/w. 401 of Criminal Procedure Code, to set aside the order passed by the learned Judicial Magistrate No.I, Ulundurpet in Crl.M.P.No.3990 of 2022 dated 01.11.2022 and to grant interim custody of the vehicle bearing Registration No.TN-23-D-7527.

For Petitioner : Mr.K.Panjamurthy

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

ORDER

Challenging the orders, dated 01.11.2022 passed in Crl.M.P.No.3990 of 2022 by the learned Judicial Magistrate No.I, Ulundurpet, the present Criminal Revision is filed.



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2. The revision petitioner filed a petition in Crl.M.P.No.3990 of 2022 under Section 451 of Cr.P.C., seeking interim custody of the vehicle viz., Ashok Leyland Lorry bearing Reg.No.TN-23-D-7527 which was seized in connection with Crime No.144/2022 for the alleged offence punishable under Section 379 of I.P.C. The said petition was dismissed by the learned Judicial Magistrate No.I, Ulundurpet on 01.11.2022 on the ground that the vehicle was involved in illegal transportation of Pebbles. Aggrieved over the said order, the present revision is filed.

3. Mr.K.Panjamurthy, learned counsel for the petitioner contended that the said vehicle was seized by the Assistant Geologist, Geology and Mining Department, Villupuram and that it is kept in the custody of Police in an open space in the Police Station. His contention is that if the vehicle is kept in an open space, the value of the same will diminish over a period of time. Therefore he prayed for return of the vehicle.

4. Mr.R.Vinothraja, learned Government Advocate (Crl. side)



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appearing for the respondent contended that the vehicle was used for illegal transportation of 4 unit of Pebbles and if the vehicle is ordered to be returned, he may use the vehicle for committing similar offence. He therefore sought for dismissal of the petition.

5. The present case is filed under Section 379 IPC and from the records it is seen that the respondent Police has not initiated confiscation proceedings in this regard.

6. 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, wherein 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.



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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.”

7. Keeping the vehicle idle in an open space, would diminish 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 allow the Revision Case.

8. Accordingly, this Criminal Revision Petition is allowed and the impugned order in Crl.M.P.No.3990 of 2022 dated 01.11.2022 passed by the learned Judicial Magistrate I, Ulundurpet, is set aside and



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the vehicle may be return to the revision petitioner of the vehicle 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 trial Court is directed to issue a 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-23-D-7527 and such panchanama can be used in evidence.
- v. the Court shall take photograph of the vehicle bearing Registration No. TN-23-D-7527 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;



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- vii. the petitioner shall give an undertaking that she will not use the vehicle for any illegal activities in future,
- viii. the petitioner shall also produce the vehicle as and when required by the court below and by the respondent police.

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

To

- 1.The Judicial Magistrate I, Ulundurpet.
- 2.The Sub-Inspector of Police,
Edaikkal Police Station,
Kallakurichi District.
3. The Section Officer,
Criminal Section, High Court,
Madras.

R. HEMALATHA, J.



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