



Crl.R.C.No.1683 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 03.01.2023

CORAM

THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.R.C.No.1683 of 2022

Manokaran

... Petitioner

Vs.

The State Rep. by its,
Station House Officer,
Thirunavalur Police Station,
Kallakurichi District.

... Respondent

PRAYER: Criminal Revision Petition is filed under Section 397 r/w 401 of Cr.P.C., 1973, to call for the records pertaining to order in Crl.M.P.No.4556 of 2022, dated 25.11.2022 passed by the Judicial Magistrate No.II, Ulundurpet to set aside the same by allowing this revision petition and return the JCB 3 DX Vehicle bearing registered number TN-15-B-9050 (Engine No.H00185570) to the petitioner/owner of vehicle.

For Petitioner : Mr.B.Abdul Samath

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

ORDER



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Challenging the order of dismissal of the petitioner's application filed to return the vehicle under Section 451 of Cr.P.C, passed by the Judicial Magistrate-II, Ulundurpet, in Crl.M.P.No.4556 of 2022, dated 25.11.2022, the present Revision has been filed.

2. The respondent police seized the JCB bearing Reg.No.TN-15-B-9050 (Engine No.H00185570) belonging to the petitioner on the allegation that the vehicle has been indulged by the accused person to take gravel sand illegally. Pursuant to that, the respondent police registered a case in Crime No.445 of 2022 for the offence under Section 379 of I.P.C and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. The petitioner, who is the owner of the above said vehicle, filed an application before the Trial Court for returning of his vehicle bearing registration No.TN-15-B-9050 and the Trial Court dismissed the petition and passed the impugned order on the ground that the Magistrate Court has no jurisdiction to return the vehicle seized for offence under Section 379 of I.P.C and Section 21(1) of Mines and Minerals (Development and



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Regulation) Act, 1957 and the same is exclusively triable by the Special Court for Mines and Minerals cases.

3. The learned counsel for the petitioner contended that the petitioner is the owner of the JCB, bearing Registration No.TN-15-B-9050. The petitioner does not commit any similar type of offence and he is ready to abide any condition imposed by this Court. The vehicle has been seized on 01.10.2022 and it is in custody of the police from that day onwards. If the vehicle is allowed to be stationed in an open yard under all weather conditions and the natural calamities, the value of the vehicle will be drastically depreciated.

4. When the matter taken up, the Learned Government Advocate (Crl.Side) for the respondent objected to return the vehicle. However, he submitted that the petitioner's vehicle has not involved in any previous case or similar type of offence. Hence, he prays to dismiss the petition.

5. On perusal of records, the fact reveals that the petitioner is the owner of



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the vehicle bearing Reg.No.TN-15-B-9050. Based on the complaint given by one Arul Murugan, Assistant Geologist, the respondent police intercepted vehicle which was loading the gravel sand without any permission from the concerned authority, seized the vehicle and registered the case in Crime No.445 of 2022 for the offence under Section 379 of I.P.C and Section 21(1) of Mines and Minerals (Development and Regulation) Act, 1957. Admittedly, the said vehicle is in custody before the Judicial Magistrate Court in C.P.No.422 of 2022.

6. In *Sunderbhai Ambalal Desai vs State Of Gujarat*, the Hon'ble Supreme Court 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."

7. Considering the nature of the offence involved and also considering the



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dictum laid down by the Hon'ble Supreme Court in ***Sunderbhai Ambalal Desai*** (cited supra), I am inclined to return the vehicle to temporary custody of the petitioner on certain conditions.

8. 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-B-9050 to temporary custody of the petitioner, on complying the following conditions:

- i. the petitioner shall prove his ownership of the vehicle by producing 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.5,00,000/- (Rupees five lakhs only) before the Judicial Magistrate No.II, Ulundurpet;
- 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



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vi.the petitioner shall also produce the vehicle as and when required before the Court below and before the respondent police.

9. Accordingly, the Criminal Revision Case is allowed.

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bsm

Index :Yes/No.

Internet :Yes/No.

To

1. The Judicial Magistrate-II, Ulundurpet.
2. The Station House Officer, Thirunavalur Police Station, Kallakurichi District.
3. The Public Prosecutor,
High Court of Madras, Chennai.



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V.SIVAGNANAM, J.,

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