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Crl.R.C.No.1721 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 25.01.2023

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THE HONOURABLE MR. JUSTICE V.SIVAGNANAM

Crl.Rc.No.1721 of 2022

M.Parthiban

... Petitioner

Vs.

State by the Inspector of Police,
Anandhapuram Police Station,
Anandhapuram, Gingee Taluk,
Villupuram District.
Respondent

...

PRAYER: Criminal Revision Petition filed under Section 397 r/w 401 of Criminal Procedure Code, 1973 to call for the records relating to Crl.M.P.No.5139 of 2022 dated 17.11.2022 on the file of the Judicial Magistrate Court, Gingee, Villupuram District and set aside the same and consequently, directing the judicial Magistrate Court, Ginee, Villupuram District to return back the petitioner's Tractor along with Tipper bearing Registration No.TN-16-Y-8586 to the petitioner.

For Petitioner : Mr.C.Prakasam

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



Crl.R.C.No.1721 of 2022

WEB COPY

ORDER

This Criminal Revision Petition has been filed to set aside the order dated 17.11.2022 passed in Crl.M.P.No.5139 of 2022 by the Judicial Magistrate, Gingee, Villupuram District and direct the Trial Court to return back the petitioner's Tractor along with Tipper bearing Registration No. TN-16-Y-8586 to the petitioner.

2. The case of the prosecution is that on 20.09.2022 at about 21.30 hours, a complaint was given by the Village Administrative Officer of Athiyur Village, in which, he had stated that he had received an information about the soil theft in S.No.36/1 from the Athiyur Village and hence he went to the village along with the officials at 5.00 p.m., where it was seen that lake soil of Athiyur Village was fully loaded in the Tipper attached to the Tractor bearing registration No.TN 16 Y 8586 and hence the vehicle was taken to Ananthapuram Police Station. However, on the way to police Station, the people of the Athiyur Village interfered and unloaded the soil. Therefore, the empty vehicle was handed over to the police station and complaint has been



Crl.R.C.No.1721 of 2022

given to take action against the owner of the vehicle. Based on the above complaint, the respondent police registered the case against the owner of the vehicle in Crime No.213/2022 for the offences punishable under Sections 430, 379 IPC and Section 21(1) of Mines and Minerals (Development and Regulation) Act and seized the above vehicle.

3. The petitioner is the owner of the Tractor along with Tipper bearing registration No.TN 16 Y 8586 and he filed a petition in Crl.M.P.No.5139 of 2022 before the Judicial Magistrate, Gingee, Villupuram District to return the vehicle, however it was dismissed, vide order dated 17.11.2022. Challenging the above said order, the petitioner is before this Court.

4. The learned counsel for the petitioner submitted that the petitioner is the owner of the above vehicle and one Natarajan, s/o Ayyamperumal was permitted by the Sub Collector, Tindivanam to take 50 units soil from the Athiyur Village situated in S.No.36 for Agricultural purpose. He further submitted that, the above said Natarajan engaged the petitioner to take soil



Crl.R.C.No.1721 of 2022

from the lake and hence, the petitioner used his vehicle for taking the soil from the above said lake. However, the Trial Court without considering the above fact, has dismissed the petition. He further contended that the Hon'ble Supreme in various cases held that the vehicle could not be kept idle in open space and hence, he seeks interim custody of the vehicle to the petitioner.

5. The learned Government Advocate (Crl.Side) appearing for the respondent objected to release the vehicle to the petitioner. He further contended that the petitioner has not produced any material to show that he was engaged by the said Natarajan to take soil from the lake. Therefore, in the absence of any such material, the petitioner should be treated as "he had taken the soil illegally" and hence, the petition is liable to be dismissed.

6. Heard the learned counsel for the petitioner and the learned counsel for the respondent and I have perused the materials on record.

7. A perusal of the records shows that the respondent police registered a case in Crime No.213/2022 against the petitioner. The fact reveals that, on



Crl.R.C.No.1721 of 2022

complaint received from the people of Athiyur Village, the Village Administrative Officer of Athiyur Village went to the scene of occurrence, where, it was seen that lake soil was fully loaded in a Tipper attached to the Tractor and hence it was taken to the police station. However, on the way to police Station, the people of the Athiyur Village interfered and unloaded the soil. Hence vehicle was handed over and complaint was given. Based on the above complaint, case was registered as stated above and the vehicle was seized.

8. It is the contention of the learned counsel for the petitioner that one Natarajan, S/o Ayyamperumal was permitted by the Sub Collector, Tindivanam to take 50 units of soil from the Athiyur Village in S.No.36 for agricultural purpose. But, there is no materials to prove that the petitioner was engaged by the above said Natarajan to take soil from the above village. It is to be noted that the petitioner has not raised the above ground before the Trial Court to release the vehicle. Therefore, as contended by learned Government Advocate (Crl.Side), without any such material, it cannot be construed that



Crl.R.C.No.1721 of 2022

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the petitioner was engaged by the above said Natarjan for taking soil and hence, the petitioner should be treated as he had taken the soil illegally. Inview of the above discussion, this Court is the view that the order passed by the learned Trial Judge does not warrant any interference by this Court and hence, the Criminal Revision Case is liable to be dismissed.

9. Accordingly, this Criminal Revision case is dismissed, confirming the Order passed by the Trial Court in Crl.M.P.No.5139/2022 in Crime No.213/2022 dated 17.11.2022.

25.01.2023

Index: Yes/No
Internet: Yes/No
mst

To

1. The Judicial Magistrate, Gingee.
2. The Public Prosecutor, Madras High Court.



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Crl.R.C.No.1721 of 2022

V.SIVAGNANAM, J.,

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Crl.RC No.1721 of 2022

25.01.2023