



CrI.R.C(MD)No.1166 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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DATED : 03.11.2023

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THE HONOURABLE MR.JUSTICE P.VADAMALAI

CrI.R.C(MD)No.1166 of 2023

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... Petitioner

Vs.

- 1.The Inspector of Police,
Natham Police Station,
Dindigul District.
- 2.The Assistant Director,
Department of Geology and Mining,
Dindigul.
- 3.The District Collector,
District Collectorate Office,
Dindigul.
- 4.The Revenue Divisional Officer,
Dindigul,
Dindigul District.
- 5.The Thasildar,
Natham Taluk,
Dindigul District.
- 6.The Branch Manager,
HDFC Bank,
34, Sri Nithyakalyani Towers,
Krishnanarayar Tank,
North Veli Street,
Madurai-1.

... Respondent



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Prayer : This Criminal Revision Case has been filed under Section 397 r/w 401 of Criminal Procedure Code, to call for the records of Cr.M.P.No.219 of 2023 dated 14.08.2023 passed by the learned Principal Sessions Judge, Dindigul and set aside the same as illegal in so far as the rejecting the interim custody of the trailer and consequently direct the learned Principal Sessions Judge, Dindigul, to release the petitioner's vehicle on interim custody.

For Petitioner : Mr.A.Balaji
For R1 to R5 : Mr. K.Sanjay Gandhi
Government Advocate(Crl.Side)

ORDER

This Criminal Revision Case is filed to set aside the order dated 14.08.2023 made in Crl.M.P.No.219/2023 on the file of the Principal District and Sessions Judge, Dindigul in respect of rejecting the interim custody of the trailer and to direct the respondent to grant interim custody of the trailer attached with Escort Tractor bearing registration No.TN 59 CK 8502 which was seized by the respondent in Cr.No.381 of 2022.

2.The brief facts of the case:

The revision petitioner is not arrayed as an accused in this case registered in Cr.No.381 of 2022. It is alleged by the respondent police that on 30.10.2022 the Escorts Limited tractor bearing registration number



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TN 59 CK 8502 along with trailer named as “M R Pannai” were illegally used to load stolen one unit red sand each without any permission or licence. The case was registered punishable under section 379 of IPC only. The petitioner is the owner of the said vehicle. The vehicle was seized by the respondent police and the same is kept with respondent police open place thereby it will be ruined due to sunlight, rain and air and natural calamities. The petitioner’s vehicle was not used for the alleged offence and false case has been registered against the petitioner. The petitioner is running his livelihood by letting out the vehicles on rent.

3. The petitioner filed petition in Crl.M.P.No.219 of 2023 before the Principal District and Sessions Court, Dindigul for return of tractor with trailers. The petition was resisted by the respondent police. After hearing both the learned Principal District and Sessions Judge, Dindigul allowed the petition in respect of tractor alone and dismissed in respect of trailer. Being aggrieved by the order of dismissal for trailer, the petitioner preferred this criminal revision case.

4. Heard both and perused the records in this Criminal Revision Petition.



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5. The learned counsel appearing for the revision petitioner has submitted that the trial court failed to appreciate the provision of section 451 of Cr.PC . The petitioner cannot be deprived of the right of property. The petitioner's vehicle was kept idle in open place from the date of seizure on 30.10.2022 ie., for the past more than one year and the vehicle will get ruined by sun light and rain and it would lose its value. The trial court has not considered the settled decision of the Hon'ble Supreme Court in Sunderbhai Ambalal Desai case reported in 2003 SCC (Crl) 1943. This court has already passed order of interim custody on the same footing of tractor and unregistered trailer as per order passed in Crl.R.C.No.344 of 2023 in this case same crime number. The petitioner is ready to give undertaking and to deposit any amount. The petitioner suffers his earning because of seizure of his trailer. Hence, the impugned order of dismissal regarding trailer may be set aside and the trailer may be ordered to be returned.

6. The learned Government Advocate appearing for the respondent filed counter and submitted that at the time of occurrence two tractors and trailers were used to illegal transport of red sand. The investigating agency found out the owner of the tractor. The petitioner did not produce any valid documents to show his ownership in respect of



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trailer. The trial court has rightly dismissed the petition as the petitioner failed to produce records regarding ownership. If the vehicle is returned, the petitioner would continue the offence of this similar nature. Therefore, he strongly opposed this petition.

7. On hearing both, it is clear that the petitioner is not an accused in this case. His Escort Tractor bearing registration No.TN 59 CK 8502 with trailer were seized by the respondent police on the allegation that they were used for illegal loading of one unit red sand by the accused persons without any permission or license. The case was registered only u/s 379 of IPC. The petitioner filed petition seeking interim custody of the tractor and trailer before the trial court. However, the trial court partly allowed only in respect of Escort Tractor bearing registration No.TN 59 CK 8502 and dismissed the petition in respect of trailer.

8. The trial court held that the petitioner filed documents only in respect of tractor and has not filed any document in respect of trailer. The petitioner says that he is using the trailer only for agricultural purpose and letting it to rent he is running his livelihood. There is no specific denial by the respondent as regards trailer. The respondent has not taken plea that the trailer is not belonged to the petitioner. The Single Judge of this court has



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also ordered for return of registered tractor along with unregistered trailer involved in the same crime number of this case. In this case there is no material produced by the respondent police that confiscation proceedings has been initiated against the vehicle involved in this case, admittedly which was seized on 30.10.2022 and the same was kept in the custody of respondent for the past more than year. In the above circumstances, this court is inclined to allow this criminal revision with conditions.

9.In the result, the criminal revision petition is allowed and the order of dismissal dated 14.08.2023 in respect of trailer passed in Crl.M.P.No. 219/2023 on the file of the learned Principal District and Sessions Judge, Dindigul is set aside and the vehicle in question in this case (i.e) Trailer is ordered to be returned to the petitioner on interim custody on the following conditions.

(i)The petitioner shall execute a bond for Rs.1,00,000/- with two sureties each for a alike sum to the satisfaction of the learned District Munsif Cum Judicial Magistrate Court, Natham.

(ii) The petitioner shall deposit a sum of Rs.5,000/- (Rupees Five Thousand only) before the District Mines and Mineral Foundation Trust, Dindigul as nonrefundable deposit.



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(iii) The petitioner shall file an affidavit with specific undertaking that the petitioner shall not involve in any illegal mining or any other offence and vehicle also will not be used in the illegal mining or any other offence.

(iv)The petitioner shall not alienate the vehicle till the disposal of the case.

(v) The petitioner shall submit photographs of the vehicle along with Compact Disc duly certified under section 65 B of Indian Evidence Act.

(vi) The petitioner shall produce the vehicle (i.e) Trailer on 1st working day of every English Calender month before the said Judicial Magistrate at the time of producing the Tractor and shall produce the vehicle as and when required during the trial.

(vii)The petitioner shall co-operate to the investigation.

03.11.2023

NCC : Yes / No

Index : Yes / No

Internet : Yes / No

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To

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Dindigul.
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P.VADAMALAI, J.

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