



Crl.R.C.No.644 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.04.2024

CORAM:

THE HONOURABLE **MR. JUSTICE M.DHANDAPANI**

Crl.R.C.No.644 of 2024

Indostar Capital Finance Ltd
Rep by its Branch Manager-E.Sridhar
1st Floor, Indostar Tower,
No.22 & 23, Venkatanarayanan Road,
T.Nagar,
Chennai-600 017.

...Petitioner

Vs.

1.State of Tamil Nadu
Rep. by Inspector of Police,
Sunguvarchathiram Police Station.

2.Sudalaimani

...Respondents

Petition filed under Section 397 r/w 401 of Code of Criminal Procedure to call for the records in order dated 02.02.2024 passed in C.M.P.S.R.No.7353 by the Learned Principal Sessions Judge of Kancheepuram District at Chengalpattu and set aside the same and release the Tippar Lorry bearing No.TN-12-X-9088 to the petitioner within the time frame to be stipulated by this Court.



Crl.R.C.No.644 of 2024

For Petitioner : Mr.M.Chellapandian

For Respondents : Mr.A.Gopinath
Government Advocate (Crl. Side)

ORDER

This Criminal Revision Case has been filed as against the order dated 02.02.2024 made in C.M.P.S.R.No.7353 by the Learned Principal Sessions Judge of Kancheepuram District at Chengalpattu.

2. It is the case of the revision petitioner that he is the financier of the vehicle namely Tipper Lorry bearing Reg.No.TN-12-X-9088 belonging to the 2nd respondent which is covered by an agreement of Hire Purchase. The said vehicle was seized by the 1st respondent for the alleged offences punishable under section 379, 430 of IPC and Section 3(1) of TNPPDL Act in Crime No.373 of 2019. Subsequently, the 2nd respondent who is the owner of the vehicle filed an application before this Court in Crl.M.P.No.1641 of 2021 seeking interim custody of the vehicle and the same was allowed vide order dated 25.08.2021. While so, the petitioner herein who is the financier of the said vehicle entered into an hypothecation



CrI.R.C.No.644 of 2024

agreement with the 2nd respondent and filed a Writ Petition before this Court in W.P.No.19250 of 2023 seeking a direction to the Registering Authority to issue Registration Certificate in favour of the petitioner's Company and the same was dismissed on the ground that the possession of the vehicle is not with the petitioner and by granting liberty to the petitioner to establish its right in the manner known to law before the appropriate forum. Subsequently, the petitioner filed the unnumbered Criminal Miscellaneous Petition in CMP SR.No.7353 of 2023 seeking interim custody of the vehicle before the learned Principal Sessions Judge of Kancheepuram District at Chengalpattu and the same was rejected. Challenging the same, the present revision has been filed by the petitioner.

3. Learned counsel for the petitioner would submit that though the 2nd respondent claims to be owner of the vehicle involved in offence, since the 2nd respondent had failed to remit the finance obtained from the petitioner, the petitioner being the financier of the vehicle is entitled to repossess the vehicle however, without properly appreciating the above facts, the court below had erroneously granted an interim custody in favour



Crl.R.C.No.644 of 2024

of the 2nd respondent in Crl.M.P.No.1641 of 2021. Hence, he prays that this Court may grant liberty to the petitioner to work out the remedy in the remedy before the appropriate forum for repossession of vehicle.

4. Since no adverse order is being passed against the 2nd respondent, notice to the 2nd respondent is dispensed with.

5.This Court heard the learned counsel for the petitioner and perused the materials available on record.

6. Admittedly, the Tipper Lorry bearing Reg.No.TN-12-X-9088 belonging to the 2nd respondent was seized by the 1st respondent police for the alleged offences under section 379, 430 of IPC and Section 3(1) of TNPPDL Act in Crime No.373 of 2019. Subsequently the 2nd respondent moved an application seeking interim custody of the vehicle in Crl.M.P.No.1641/2021 and the same was allowed in favour of the 2nd respondent. However, the petitioner being the financier of the vehicle involved in the offence, is claiming for re-possession of the vehicle in his



Crl.R.C.No.644 of 2024

favour on the ground that the 2nd respondent who claims to be owner of the vehicle had failed to remit the finance obtained from the petitioner. If at all the petitioner is aggrieved, it is open for him to go before the appropriate court by filing appropriate application and he cannot seek custody of the vehicle before this Court. Therefore, this Court without interfering with the order passed in Crl.M.P.No.1641/2021, grants liberty to the petitioner to work out the remedy in the manner known to law.

7. Accordingly, this Criminal Revision Case stands dismissed.

04.04.2024

NHS

Index : Yes/No
Speaking order : Yes/No
NCC : Yes/No

To

1.The Learned Principal Sessions Judge
Kancheepuram

2.The Inspector of Police,
Sunguvarchathiram Police Station

5/7



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Crl.R.C.No.644 of 2024

M.DHANDAPANI, J.

NHS

Crl.R.C.No.644 of 2024



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Crl.R.C.No.644 of 2024

04.04.2024