



Crl.R.C. No. 1495 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 23.09.2024

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THE HON'BLE MR.JUSTICE M. NIRMALKUMAR

Crl.R.C. No. 1495 of 2024

Kumaresan

..Petitioner

Vs.

The State rep. by
The Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District.
Cr.N. 213/2021.

..Respondent

Prayer: Criminal Revision under Section 438 r/w 442 BNSS, 2023 to
set aside the order dated 21.12.2023 passed in Criminal Miscellaneous
Petition No. 6961 of 2023 by the Principal Sessions Court, Villupuram.

For Petitioner :: Ms.R.Raji

For Respondent :: Mr.A. Damodaran,
Addl. Public Prosecutor



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ORDER

Read this in conjunction with and in continuation of the earlier order of this Court dated 06.09.2024, which reads as follows:

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M.NIRMAL KUMAR, J.

The petitioner, the owner of Ashok Leyland Dost bearing Reg.No.TN-16-8508 which was seized in Crime No.213 of 2021 by the respondent Police, has filed return of property petition in C.M.P.No.611 of 2021 before the learned Judicial Magistrate No.II, Ulundurpet. This petition was dismissed by order, dated 19.11.2021. Challenging the same, the petitioner filed revision before the learned Principal Sessions Judge, Villupuram with a delay of 137 days and the revision petition was returned finding some defects. The Advocate Clerk got returned papers, but could not comply the defects and file it within the time for the reason that the returned papers mixed up with other bundles and finally it was traced out. With a delay of 137 days, it was re-presented before the learned Principal Sessions Judge, Villupuram. The learned Principal Sessions Judge, Villupuram by order, dated 13.12.2023 in Crl.M.P.No.6961 of 2023 passed conditional order directing the petitioner to pay Rs.350/- as cost to the Secretary, Mediation Centre, Villupuram and produce the receipt on or before 20.12.2023. In the event of failure of the payment of cost within the stipulated period, the petition would stand automatically dismissed. On 21.12.2023 finding cost memo not filed, the petition dismissed. Against which, the present criminal revision case is filed.

2.The learned counsel for the petitioner submitted that the petitioner is not an accused but his vehicle seized by the respondent Police in Crime No.213 of 2021 for offence under Sections 379 and 430 of IPC. The petitioner bought the vehicle by availing private financial assistance who is now forced to pay EMI for the vehicle and his only livelihood is on hiring the vehilce. As regards the act committed by the



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accused in Crime No.213 of 2021, it is without the petitioner's knowledge and the petitioner is no way connected and not an accused. She further submitted that substantial justice would be rendered only on hearing the petitioner and order passed on merits but not on technicality.

3.The learned Additional Public Prosecutor appearing for the respondent Police submitted that the case in Crime No.213 of 2021 registered against two persons viz., A1, the Driver of the vehicle and A2 the Cleaner of the vehicle. The petitioner is the owner of the vehicle and the vehicle was found transporting ½ unit of river sand without valid permit. The vehicle produced before the Lower Court on 10.11.2021 in C.P.No.170 of 2021. The Lower Court considering the merits of the case and finding great ecological damage caused by illegal transporting of river sand, dismissed the petition. As regards the impugned order is concerned, since the order passed not on merits, the learned Additional Public Prosecutor has no serious objection.

4.Considering the submissions and on perusal of the materials, it is seen that there have been delay in re-presenting the revision petition before the Sessions Court. The Sessions Court granted relief of condoning the delay of 137 days and directing to pay Rs.350/- within stipulated period. In this case, within the time, the amount not paid, hence the petition was dismissed. Now the petitioner has come forward to deposit Rs.3,000/- to the credit of the account maintained by the Secretary, Mediation Centre, Villupuram within a period of two weeks. The petitioner is permitted to remit the cost.

5.Post the matter on 23.09.2024 to produce proof of payment.'

2. Today, when the matter is taken up, the petitioner has produced a receipt confirming the payment of Rs.3000/- to the District Legal Services Authority, Villupuram.



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M. NIRMALKUMAR,J.

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3. In view of the same, the dismissal order passed by the learned Principal Sessions Judge, Villupuram dated 21.12.2023 in Crl.M.P.No. 6961 of 2023 is hereby set aside. The learned Principal Sessions Judge, Villupuram shall restore the petition on file, consider and dispose of the same on its own merits.

4. The criminal revision stands allowed with the above directions.

23.09.2024

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To

1. The Principal Sessions Judge,
Villupuram.
2. The Inspector of Police,
Thiruvannainallur Police Station,
Villupuram District.
3. The Public Prosecutor,
High Court, Madras.

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