



Crl.R.C.No.2174 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2174 of 2024

Sivakumar

... Petitioner/owner of the vehicle

Vs.

The State

Rep. by the Inspector of Police,

Tharamangalam Police Station,

Salem District.

(Crime No.582 of 2023).

...Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 r/w 442 of BNSS, to call for the records in Crl.M.P.No.141 of 2024 dated 24.08.2024 on the file of the the Judicial Magistrate, Omalur and set aside the same subsequently grant interim custody of vehicle Ashok Leyland Tipper Lorry bearing Regn.No.TN18 J 0012 to the petitioner.

For Petitioner : Ms.R.Pandimeena

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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ORDER

The petitioner aggrieved by the dismissal of his petition filed under Section 451 of the Cr.P.C., for return of his Ashok Leyland Tipper Lorry bearing Regn.No.TN18 J 0012, has preferred the present revision.

2. The petitioner is an accused in Crime No.582 of 2023 registered for the offence under Section 21 (1) Mines and Minerals Development and Regulation Act, 1957, for transporting 12 metric tonnes of red sand worth Rs.1,200/-. The petitioner sought for return of his vehicle which was seized during the investigation stating that ever since the date of seizure i.e., on 22.12.2023, the vehicle is kept idle in the police station in an open place and thereby the value of the vehicle is diminishing and if the vehicle is not returned, it would be reduced to a scrap. The trial Court dismissed the said petition on the ground that it would not be in the interest of justice to hand over the interim custody of the lorry to the petitioner.

3. The learned counsel for the petitioner submitted that the petitioner



is innocent and there are no previous cases against him; that the

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value of the contraband is Rs.1,200/- as per the FIR; that the vehicle is kept in open space exposed to the vagaries of weather and it would become a scrap; that the petitioner is ready to comply with any condition that this Court may impose; and hence, prayed for return of the vehicle.

4. The learned Government Advocate (Crl.Side), for the respondent on instructions, would submit that the seizure was made during the course of the investigation; that the respondent had not initiated any confiscation proceedings; and that there are no previous cases against the petitioner.

5. In the light of the above submissions, this Court is of the view that the vehicle cannot be kept idle in an open space and its value cannot be allowed to be diminished as held by the Hon'ble Supreme Court. The petitioner is the owner of the vehicle and therefore, he is the proper person entitled to the custody of the vehicle.



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6. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 24.08.2024 passed by the learned Judicial Magistrate, Omalur, in Crl.M.P.No.141 of 2024 in Crime No.582 of 2023 is set aside. In view of the same, the respondent is directed to return the vehicle viz., Ashok Leyland Tipper Lorry bearing Regn.No.TN18 J 0012 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.5,00,000/- (Rupees Five Lakhs only) with two sureties for a likesum to the satisfaction of the learned learned Judicial Magistrate, Omalur;

(ii) The petitioner shall produce the original RC Book along with a self-attested Photostat copy of the RC Book of the vehicle and other relevant records to prove his ownership. The learned Judicial Magistrate, Omalur, shall peruse the RC book and other records, retain a xerox copy of the same and return the original RC book to the petitioner;

(iii) The petitioner shall not alter or alienate the vehicle in any manner;



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(iv) The petitioner shall also give an undertaking that he will produce the vehicle as and when required by the respondent and by the court below.

(v) The return of property would be subject to the result of the confiscation proceedings, if any.

09.12.2024

Index : Yes/No
Speaking Order/Non Speaking Order
Neutral Citation: Yes/No

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Note: Issue Order copy by 10.12.2024.

To

- 1.The Judicial Magistrate,
Omalur.
- 2.The Inspector of Police,
Tharamangalam Police Station,
Salem District.
- 3.The Public Prosecutor,
High Court, Madras.



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SUNDER MOHAN, J.

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