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Crl.R.C.No.1622 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 19.08.2024

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THE HONOURABLE MR.JUSTICE M.NIRMAL KUMAR

Crl.R.C.No.1622 of 2022

Ukkaram Mukanram @ M.Ukkaram

... Petitioner

Vs.

The State rep. by
The Inspector of Police,
T-Palur Police Station,
Ariyalur District.
(Cr.No.201 of 2022).

... Respondent

PRAYER: Criminal Revision is filed under Section 397 r/w 401 of the Code of Criminal Procedure, to set aside the order dated 16.11.2022 passed in Crl.M.P.No.2835 of 2022 on the file of the learned Judicial Magistrate No.I, Jayankondam in Cr.No.201 of 2022 on the file of the Inspector of Police, T.Palur Police Station, Ariyalur District by releasing the vehicle EICHER Lorry bearing Registration No.TN-36-AK-1289, Chasis No.MC2EGDRC0MEB04106, Engine No.E44CDME019073 to the revision petitioner by allowing this revision.

For Petitioner : Mr.T.Nixon

For Respondent : Mr.A.Damodaran
Additional Public Prosecutor



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ORDER

The petitioner/accused in Crime No.201 of 2022 and owner of the Eicher Lorry bearing Registration No.TN-36-AK-1289 involved in smuggling of Tobacco products and a case was registered for offence under Section 328 of I.P.C. and 20(1) of Cigarette and Tobacco Products Act, 2003. He filed a petition under Section 451 of Cr.P.C., in Crl.M.P.No.2835 of 2022 before the learned Judicial Magistrate No.I, Jayankondam to return the vehicle viz., EICHER Lorry bearing Registration No.TN-36-AK-1289. The learned Magistrate *vide* impugned order, dated 16.11.2022 dismissed the petition against which the present criminal revision case is filed.

2.The contention of the learned counsel for petitioner is that admittedly the petitioner was not present in the scene of occurrence and nothing transported in the Eicher lorry. The petitioner has been implicated in this case on the confession of A1 and A2, driver and cleaner of the vehicle. Since other accused A3 being the brother of petitioner said to be the owner of the Tobacco products, the petitioner has been falsely implicated in this case. The petitioner makes his living by hiring his vehicle. The vehicle has been seized by the respondent-police on 26.07.2022. From that day onwards vehicle has been kept in open space exposing to vagaries of weather, further detention of



vehicle would make the vehicle unusable, rusted and it would become a scrap.

Due to the seizure of the vehicle the petitioner is unable to eke out his livelihood. The petitioner is ready to comply with any condition that this Court may impose while granting return of vehicle. Hence, he prays for return of property.

3.The learned Additional Public Prosecutor opposed the same and submitted that the driver of the vehicle and cleaner/A1 and A2 employed under the petitioner. The petitioner is having knowledge about the illegal transportation of Tobacco products. Tobacco products seized are huge quantity of 1650 kgs., which is worth about Rs.2,50,000/-. The seized vehicle and tobacco products produced before the learned Judicial Magistrate No.I, Jayankondam and R.P.No.144 of 2022 dated 04.08.2022 assigned. He further submitted that investigation in this case almost completed, awaiting forensic report. Once forensic report received, charge sheet would be filed. He further submitted that the petitioner hail from other State and chances of absconding is very much there. If the vehicle is returned to the petitioner, he would take away the vehicle to other State. It is very difficult for the vehicle to be secured and the trial would get stalled. Hence, prays for dismissal of the petition.

4.The learned counsel for petitioner refuted the same stating that the



petitioner staying in Erode. He can produce his Aadhar card and other details to show that he is very much available here and settled with his family. The vehicle is also purchased in Erode and it has got registration of Erode District, Tamil Nadu State. The petitioner would cooperate with the investigation and produce the vehicle as and when required and he will not be a reason for any delay.

5.Considering the submissions and on perusal of the materials, it is not in dispute that the petitioner is the owner of Eicher Lorry bearing Registration No.TN-36-AK-1289. It is seen that from the date of recovery, the vehicle is kept in open yard exposing to vagaries of weather and thereby, the value of the vehicle is getting diminished. The Hon'ble Apex Court in the case of ***“Sunderbhai Ambalal Desai Versus State of Gujarat reported in 2002 10 SCC 290”***, had given guidelines in the cases of return of property to the owner.

6.The petitioner without prejudice to his contention is coming forward to pay a sum of Rs.50,000/- to any de-addiction centre. Hence, the amount of Rs.50,000/- to be paid in favour of of Sri Ramachandra University, Porur



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Branch, Sri Ramachandra University, Ramachandra Nagar, Porur, Chennai-600 116 in A/c.No.CA 6203243021, IFSC Code:IDIB000S180 Indian Bank.

This amount of Rs.50,000/- shall be utilized for the purpose of head and neck cancer surgeries, Department of Oral and Maxillofacial Surgery. It is made clear that the petitioner shall produce the proof of payment for Rs.50,000/- at the time of filing affidavit before the trial Court.

7.In view of the above, this Court is inclined to return the vehicle to the petitioner. The respondent police is directed to grant custody of the said vehicle viz., Eicher Lorry bearing Registration No.TN-36-AK-1289 to the petitioner with the following conditions:

(i)The petitioner shall execute a personal bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties each, for a like sum to the satisfaction of the learned Judicial Magistrate No.I, Jayankondam. The petitioner and the sureties shall affix their photographs and give the copies of their Aadhaar Card;

(ii)The petitioner shall not alter or alienate the vehicle in question till the completion of trial.

(iii)The petitioner shall take photograph of the vehicle and submit the



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same along with Compact Disc duly certified under Section 65-B of the Indian Evidence Act, 1872.

(iv)The petitioner shall submit a self attested photostat copy of R.C.Book before the learned Judicial Magistrate No.I, Jayankondam.

(v) The petitioner shall produce the vehicle as and when directed to do so.

8.In the result, the impugned order, dated 16.11.2022 passed in Crl.M.P.No.2835 of 2022 by the learned Judicial Magistrate No.I, Jayankondam is set aside and the revision is, accordingly, allowed.

19.08.2024

Speaking order/Non-speaking order

Index: Yes/No

Internet: Yes

Neutral Citation: Yes/No

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To
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- 1.The Inspector of Police,
T-Palur Police Station,
Ariyalur District.
- 2.The Judicial Magistrate No.I,
Jayankondam.
- 3.The Public Prosecutor,
High Court, Madras.



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M.NIRMAL KUMAR, J.

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