



WEB COPY



Crl.R.C.Nos.1954 & 1956 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 05.12.2024

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.Nos.1954 & 1956 of 2024

Kumar ... Petitioner in Crl.RC No.1954 of 2024

Periyasamy ... Petitioner in Crl.RC No.1956 of 2024

Vs.

The State Rep. By its
Inspector of Police
Voimedu Police Station,
Crime No.171 of 2024)

...

Respondent

Common Prayer: Criminal Revision Petition filed under Sections 438 r/w 442 of BNSS, 2023 praying to set aside the order dated 22.10.2024 passed in Crl.MP No.708 & 711 of 2024 by the learned District Munsif Court cum Magistrate Court, Vedaranyam and consequently direct the return of cattle (ie. Black Colour Dairy Cow, Bull Cow with horn, black and white baby cow, red colour bull cow) respectively.

In both Crl.RCs

For Petitioner : Mr.T.Perinbanathan

For Respondent : Mr.S.Udaya Kumar
Govt. Advocate (crl.side)



COMMON ORDER

WEB COPY This revision challenges the dismissal of the petitioner's application filed under Section 497 of BNSS for return of nine cattles which were seized from the petitioner.

2. The petitioners are the owner of the cattle and said to have transported the cattle in a Bolero Pick-up Truck in an inhumane condition; and that on enquiry, it was found that the cattle were meant for sending to Kerala for slaughtering. Hence, a FIR was registered in Crime No.171 of 2024 for the offence under Sections 269(b), 291 BNS and r/w 11(1)(a) of Prevention of Cruelty to Animals Act. The petitioners sought for return of the cattle which were seized during investigation on the ground that the cattle were meant for agricultural purpose and also for milk business.

3. The learned Magistrate dismissed the said petitions on the ground that since the cattle were transported to Kerala for Slaughtering, the petitioners would not be entitled for return of the cattle, as per the decision of the Hon'ble Apex Court in *S.Muralidharan v. Nagaraj and another reported in 2015 (4) MLJ 38*.



4. The learned counsel for petitioners would submit that pursuant to the seizure made by the respondent, one cow which was not properly take care of by the respondent died and another cow had run away and could not be traced; that cattle were not meant for slaughtering and even according to the prosecution, it was transported from Vedaranyam to Orathanadu; that the cattle were taken for treatment to a Veterinary Hospital at Orathanadu; that the aforesaid route would suggest that it was not meant for sending to Kerala for slaughtering; and that the petitioners would undertake not to sell the cattle for slaughtering purpose and produce the cattle, as and when required by the trial court.

5. The learned counsel for the petitioners relied upon an order passed of this Court dated 21.01.2022 in Crl.RC No.965 of 2021 in ***Shakeer Ali vs. State rep.by its Inspector of Police*** wherein under similar circumstances, this Court had directed return of the cattle on certain conditions.

4. The learned Government Advocate (crl.side), on instructions, would submit that after seizure, one of the cows died due to old age and sickness and the other cow had run away and could not be traced; that the investigation reveals that the cattle were transported for slaughtering. When



this Court had specifically questioned the learned Government Advocate as to on what basis, the respondent had come to that conclusion, the learned Government Advocate would submit that it is on the basis of the statement made by the petitioner to the police.

5. Heard the learned counsel for the petitioners as well as the learned Government Advocate (crl.side) appearing for the respondent and perused the records.

6. Admittedly, out of seven cows and two bulls which were seized, one cow died and another cow had fled while in the custody of the respondent. The respondent has not collected any evidence to suggest that the cattle were transported for slaughtering. The route in which the cattle were taken namely from Vedaranyam to Orathanadu would *prima facie* show that the cattle were not meant for transporting to Kerala for slaughtering. This Court, in ***Shakeer Ali vs. The State rep.by its Inspector of Police*** , cited *supra*, had held that if it is not established that the cattle were meant for slaughtering, the same can be returned to the owner on stringent conditions.

7. The only allegation against the petitioners is that more than six cows



were transported in the vehicle and the cattle were transported in an inhumane conditions. It is the case of the petitioners that they are dependant on the cattle for their livelihood as the cows produce milk and the bulls are used for agricultural purpose. It is also reported that one of the cows had delivered a calf. The petitioners have agreed to file an affidavit of undertaking before the trial court that the animals will not be subjected to cruelty and they will be produced before the trial court as and when required.

8. In the above circumstances, this Court is of the opinion that the learned Magistrate can be directed to handover the interim custody of the seized cattle and the new born calf to the petitioners on certain conditions. Accordingly, the Criminal Revision Petition is allowed and the impugned order, dismissing the petition for return of property in Crl.MP.Nos.708 & 711 of 2024, dated 22.10.2024 passed by the learned District Munsif Cum Magistrate Court, Vedaranyam, are hereby set aside and that the interim custody of the cattle shall be handed over to the petitioner, subject to the following conditions:



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(i) The petitioners shall execute a bond for a sum of Rs.25,000/- each, with two sureties each for a like sum to the satisfaction of learned District Munsif Cum Magistrate Court, Vedaranyam;

(ii) The petitioners shall take individual photographs of the cows and the bulls and hand it over to the Magistrate.

(iii) The petitioners are further directed to file an affidavit of undertaking before the trial court that the cattle will be maintained properly and will not be treated cruelly and it will be transported in a safe manner and used only for agricultural purpose and if necessary they will be produced before the learned Magistrate or before the respondent as and when required or either during investigation or during trial.

9. With the above directions, both the Criminal Revision Cases stand allowed.

05.12.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non Speaking Order

Neutral Citation: Yes/No

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SUNDER MOHAN, J.

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To

1.The District Munsif Cum Magistrate Court,
Vedaranyam,

2.The Inspector of Police
Voimedu Police Station.

3.The Public Prosecutor,
High Court, Madras.

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