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Crl.R.C. No. 2305 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 16.12.2024

CORAM

THE HONOURABLE MR. JUSTICE SUNDER MOHAN

CRL.R.C. No. 2305 of 2024

Humayun Basha N.

..Petitioner

Vs.

The State rep. by its
The Inspector of Police,
CSCID Chennai Police Station.
(Crime No.307 of 2024)

..Respondent

Prayer: Criminal Revision Petition under Section 438 r/w 442 BNSS,
2023 to set aside the order of dismissal dated 05.11.2024 made in C.M.P.
No. 10342 of 2024 in Cr.No. 307 of 2024 on the file of Judicial Magistrate
Court No.II at Thiruvallur.

For Petitioner :: Mr.R.M. Gokulakrishnan

For Respondent :: Mr.S. Udayakumar
Government Advocate
(Criminal Side)
O R D E R



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The criminal revision challenges the dismissal of the petitioner's application filed under Sections 497 and 503 of Bharatiya Nagarik Suraksha Sanhita, 2023 seeking return of Ashok Leyland Tanker Lorry bearing Registration No.TN-03-J-2282.

2. A case was registered in Crime No. 307 of 2024 for alleged offences under Sections 2(e)(i), (ii) & (vi), 2(f) of Motor Spirit and High Speed Diesel (PMSD) Order 1998 r/w 7(1)(a)(ii) of Essential Commodities Act, 1955 r/w 336(2) & (3) of Bharatiya Nyaya Sanhita, 2023. The allegation in the FIR is that from the Tanker Lorry belonging to the petitioner transporting diesel for Indian Oil Corporation, 30 litres were stolen and filled in barrels for the purpose of sale.

3. During the course of investigation, the respondent seized the petitioner's vehicle and the same is in the custody of the respondent since 02.08.2024. The petitioner sought return of the vehicle and the same was dismissed by the Trial Court on the ground that investigation is pending.

4. Learned counsel for the petitioner would submit that the petitioner is not an accused in the FIR; that there are no cases registered



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against the petitioner earlier; that the vehicle is kept idle in the Police Station and subjected to vagaries of weather and sought return of the vehicle.

5. Learned Government Advocate would submit, on instructions, that the petitioner is not an accused ; that there are no previous cases against the petitioner and that confiscation proceedings have not been initiated so far.

6. 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.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 05.11.2024 passed by the learned Judicial Magistrate No.II, Tiruvallur, in Crl.M.P.No.10342 of 2024 in Crime No.307 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle viz., Ashok Leyland Tanker Lorry bearing Regn.No.TN-03-J-2282 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a



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sum of Rs.10,00,000/- (Rupees Ten Lakhs only) with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate No.II, Tiruvallur;

(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 No.II, Tiruvallur, 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;

(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.

16.12.2024

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



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SUNDER MOHAN,J.

nv

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