



Crl.R.C.(MD)No.1133 of 2023

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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Dated : 24.01.2024

CORAM

THE HONOURABLE MR.JUSTICE VIVEK KUMAR SINGH

Crl.R.C.(MD)No.1133 of 2023

T.Prince

.. Petitioner

Vs.

The State, rep. by

The Sub-Inspector of Police,

Kotticode Police Station,

Kanyakumari District @ Nagercoil.

Crime No.25 of 2023

... Respondent

PRAYER : Criminal Revision Case is filed under Sections 397 r/w 401 of the Criminal Procedure Code, to call for the records relating to the order dated 10.08.2023 in Crl.M.P.No.3715 of 2023 in Crime No.25 of 2023 on the file of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, set aside the same and consequently, direct the



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respondent herein to return the vehicle bearing Registration No.TN 74 AR 2974 (Mahindra Tipper Tempo) to the petitioner for his interim custody.

For Petitioner : Mr.B.Brijesh Kishore

For Respondent : Mr.A.Thiruvadi Kumar,

Additional Public Prosecutor

ORDER

Challenging the order passed by the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, in Crl.M.P.No.3715 of 2023 dated 10.08.2023, the present Criminal Revision has been filed by the petitioner for seizure of his vehicle viz., Mahindra Tipper Tempo bearing registration No.TN 74 AR 2974 and consequently, for a direction to the respondent to release of the vehicle.

2. The petitioner is the owner of the vehicle/Mahindra Tipper Tempo bearing registration No.TN 74 AR 2974. On 22.02.2023, the respondent police intercepted the Mahindra Tipper



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Tempo bearing registration No.TN 74 AR 2974 and seized the vehicle as the same was used for transporting sand from the pond without proper permission of permit and registered a case in Crime No.25 of 2023 for the offence under Section 379 IPC. The petitioner has approached the learned Principal Sessions Judge, Kanyakumari District at Nagercoil, for returning the said vehicle in Crl.M.P. No.3715 of 2023 and the learned Principal Sessions Judge, vide order dated 10.08.2023, has dismissed the petition. Aggrieved over the same, the present Criminal Revision Case has been filed by the petitioner.

3. The learned counsel for the petitioner submitted that the trial Court failed to take note of the fact that the petitioner's vehicle has been involved in the engagement of work as per the request made by the contractor who was allotted with the work order by the Executive Officer, Kothanalloor Town Panchayat, vide proceedings dated 27.07.2022 for rejuvenation of two ponds and therefore, the alleged offence attributed against the petitioner in Crime No.25 of 2023 would



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not lie and the order passed by the learned Principal Sessions Judge, is liable to be set aside. Hence, he has come forward with the present petition for release of the vehicle.

4. The learned Additional Public Prosecutor submitted that the same vehicle involved in another case in Crime No.40 of 2021 of Aralvaimozhi Police Station. Though the petitioner was working under the rejuvenation contract work, they all together intentionally transported the pond soil illegally to some other place, other than the specific location in which the panchayat has specifically directed to fill the soil which is taken from the said pond to gain illegal enrichment and the offence committed by the petitioner has serious impact on the environment and hence, opposed for allowing the petition.

5. The learned counsel for the petitioner submitted that in a case which is of similar nature, this Court has released the vehicle with certain conditions, vide order, dated 30.03.2023 passed in Crl.R.C. (MD)No.344 of 2023.



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6. Considering the facts and circumstances of the case and also taking note of the fact that a similar petition was allowed in Crl.R.C.(MD)No.344 of 2023 and further in the light of the decision of the Hon'ble Supreme Court in the case of ***Sunderbhai Ambalal Desai vs. State of Gujarat*** reported in ***AIR 2003 SC 638***, this Court is of the opinion that instead of keeping the vehicle idle exposing to sun and rain, the vehicle may be returned to the petitioner, however on certain conditions. The respondent is directed to return the vehicle of the petitioner on the following conditions:-

i) The petitioner shall execute a bond for a sum of Rs.2,50,000/- (Rupees Two Lakhs Fifty Thousand only) with two sureties each for a like-sum to the satisfaction of the learned Principal Sessions Judge, Kanyakumari District at Nagercoil.

ii) The petitioner shall deposit a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) as



non-refundable for the vehicle to the credit of the District Mineral Foundation Trust, Kanniyakumari.

(iii) the petitioner shall prove his ownership of the vehicle by producing the R.C. Book and other relevant records; and directed to deposit the original R.C. Book before the lower Court; in the event of deposit, the lower Court is directed to inform the concerned Registering Authority about the deposit of R.C. Book.

(iv) The petitioner shall not alienate (or) materially change (or) alter the vehicle in any manner.

(v) The petitioner shall give an undertaking that he will not use the vehicle for any illegal activities in future.

(vi) The petitioner shall produce the vehicle before the Court and before the respondent Police as and when required.



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7. With the above directions, the Criminal Revision Case is disposed of.

24.01.2024

Index : Yes / No

Internet : Yes / No

NCC : Yes / No

RM

Copy to

1.The Principal District and Sessions Judge,
Kanyakumari District
at Nagercoil,

To

1.The Sub-Inspector of Police,
Kotticode Police Station,
Kanyakumari District @ Nagercoil.

2.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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VIVEK KUMAR SINGH, J.

RM

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