



Crl.R.C.(MD)No.1088 of 2024

WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 18.11.2024

CORAM

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C.(MD)No.1088 of 2024

Balakrishnan

... Petitioner

Vs.

State rep.by
The Inspector of Police,
Adiramapattinam Police Station,
Thanjavur District
(Crime No.269 of 2023)

... Respondent

PRAYER : Criminal Revision Petition filed under Section 438 r/w 442 BNSS, to call for the records pertaining to the order passed by the learned Judicial Magistrate, Pattukottai in Cr.M.P.No.1355 of 2024 vide order dated 09.08.2024 and set aside the same, and consequently, direct the respondent herein to grant the interim custody of the vehicle viz. Bolero Maxi Truck bearing Registration No.TN-32-M-3488, which has been sized by the respondent herein in Crime No.269 of 2023.

For Petitioner : Mr.K.M.Karunakaran

For Respondent : Mr.M.Vaikkam Karunanidhi
Government Advocate (Crl. Side)



Crl.R.C.(MD)No.1088 of 2024

vide his order, dated 09.08.2024, has dismissed the said petition.

Aggrieved by the order of dismissal, the petitioner has now come forward with the present revision.

4. Heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing for the respondent.

5. The learned counsel appearing for the petitioner would submit that the petitioner has purchased the vehicle, viz. Bolero Maxi Truck bearing Registration No.TN-32-M-3488, from one R.Ammakannu. Yet, the registration of the vehicle has not been transferred to the name of the petitioner. An affidavit, which was attested by the Notary Public, has been produced stating that one Ammakannu, who is the previous owner of the said vehicle, has declared the petitioner as the owner of the said vehicle and has also given no objection to the petition to be filed for return of property. He would further submit that the said vehicle has no connection whatever with the alleged occurrence, and that the vehicle is with the police for the past ten months, and that if the vehicle is kept in



Crl.R.C.(MD)No.1088 of 2024

open place, the value of the said vehicle will get deteriorated, and that therefore, interim custody may be granted to the petitioner.

6. The learned Government Advocate (Criminal Side) appearing for the respondent would submit that the vehicle involved in this case was used for transporting $\frac{1}{2}$ unit of river sand without valid license or permit.

7. In this case, the vehicle was seized on 27.12.2023. The vehicle is keeping in the open place from 27.12.2023 onwards. Further, if the vehicle is kept in open place exposing to sun and rain, the value of the vehicle will be deteriorated and no purpose will be served in keeping the vehicle in custody. Considering the over all facts and circumstances of the case, and also considering the fact that the previous owner of the vehicle has tendered no objection to grant interim custody of the vehicle to the petitioner, this Court is inclined to allow this revision by following the principle of law laid down by the Honourable Supreme Court, in the case of *Sunderbhai Ambalal Desai Vs. State of Gujarat [2002 (10) SCC 283]*.



Crl.R.C.(MD)No.1088 of 2024

WEB COPY

8. Accordingly, this Criminal Revision Case is allowed, and the order, dated 09.08.2024 passed in Cr.M.P.No.1355 of 2024 by the learned Judicial Magistrate, Pattukottai, is hereby set aside and the vehicle Bolero Maxi Truck bearing Registration No.TN-32-M-3488, is ordered to be returned to the petitioner for interim custody subject to the confiscation proceedings to be taken by the concern Department or by the Court on the following conditions :

(i) the petitioner is directed to deposit a sum of **Rs.15,000/- (Rupees Fifteen Thousand only)** as non-refundable deposit for the said vehicle to the credit of **the Head Master, Sethupathi Government Higher Secondary School, Tiruchuli, Virudhunagar District, Account No.:30700985498, State Bank of India, Tiruchuli, IFSC Code : SBIN0003832;**

(ii) On such deposit, the petitioner shall execute a bond for a sum of Rs.50,000/- (Rupees Fifty Thousand only), with two sureties for a likesum to the satisfaction of the learned Judicial Magistrate, Pattukottai;

(iii) the vehicle shall be photographed in different angle and the engine and chassis number shall also be photographed in the presence of the Head



Crl.R.C.(MD)No.1088 of 2024

Clerk of the learned Judicial Magistrate, Pattukottai at the cost of the petitioner and the petitioner's signature to be obtained in the backside of the photographs, and the said photographs and CD shall be kept in the case bundle for the purpose of marking them as material objects during trial;

(iv) the petitioner shall register the vehicle in his name by producing the vehicle before the concerned registering authority, and shall deposit the original Registration Certificate of the vehicle before the learned Judicial Magistrate, Pattukottai, and the said exercise shall be completed within a period of one month from the date of release of the vehicle;

(v) the petitioner shall not alienate and shall not alternate the physical features of the vehicle till the disposal of the case;

(vi) the petitioner shall produce the vehicle before the Court and before the respondent police as and when required;

18.11.2024

mkn
NCC : Yes / No
Index : Yes / No
Internet : Yes / No



WEB COPY



Crl.R.C.(MD)No.1088 of 2024

P.VADAMALAI, J.

mkkn

To

- 1.The Judicial Magistrate,
Pattukottai
- 2.The Inspector of Police,
Adiramapattinam Police Station,
Thanjavur District
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai

Crl.R.C.(MD)No.1088 of 2024

18.11.2024