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Crl.R.C.No.2316 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.01.2025

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THE HONOURABLE MR.JUSTICE SUNDER MOHAN

Crl.R.C.No.2316 of 2024

Krishnamoorthy ... Petitioner/owner of the vehicle

Vs.

The State

Rep. by the Sub-Inspector of Police,

Karimangalam Police Station,

Dharmapuri District.

(Crime No.199 of 2024).

... Respondent/complainant

PRAYER: Criminal Revision Petition filed under Section 438 and 442 of BNSS, to set aside the order dated 21.11.2024 made in Crl.M.P.No.3100 of 2024 on the file of the learned District Munsif-cum-Judicial Magistrate, Karimangalam and consequently, direct the respondent police to return the petitioner's JCB bearing Regn.No.TN-29-CU-9114 by allowing this Criminal Revision Petition.

For Petitioner : Mr.J.Pradeep

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl.Side)



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CrI.R.C.No.2316 of 2024



CrI.R.C.No.2316 of 2024

WEB COPY

ORDER

The petitioner aggrieved by the dismissal of his petition filed under Section 497 of the BNSS for return of his vehicle viz., JCB bearing Regn.NO.TN-29-CU-9114, which did not contain a number plate at the time of seizure, has preferred the present revision.

2. A case was registered in Cr.No.199 of 2024 for the offence under Section 303 (2) of the BNS, stating that certain persons/accused of the said offence were taking red sand in a JCB vehicle, without a registration number and were attempting to transport the same in a tipper lorry. The JCB belonged to the petitioner was used for removing the red sand from the land of one Murugan illegally.

3. During the course of the investigation, the JCB and the tractor-cum-trailor were seized on 31.08.2024 by the respondent. The petitioner sought for return of the JCB. The said petition was dismissed by the trial Court, stating that since the vehicle was involved in the theft of mineral wealth, the petitioner is not entitled to return of vehicle.



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4. The learned counsel for the petitioner submitted that the petitioner is not an accused; that there are no previous cases against him; that the vehicle is kept idle in the police station in an open place ever since the date of seizure, thereby the value of the vehicle is diminishing and if the vehicle is not returned, it would be reduced to a scrap; and that the petitioner is ready to comply with any condition that this Court may impose and prayed for return of the vehicle.

5. The learned Government Advocate (Crl.Side), for the respondent *per contra* submitted that the RC book produced by the petitioner was compared with the Engine and Chasis Numbers of the JCB and the respondent found that the JCB belongs to the petitioner and on instructions, would submit that the respondent had not initiated any confiscation proceedings; and that there are no previous cases against the petitioner.

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. The petitioner is the owner of the vehicle and therefore, he is the proper person entitled to the custody of the vehicle.

7. Accordingly, this Criminal Revision Case is allowed and the impugned order dated 21.11.2024 passed by the learned District Munsif-cum-Judicial Magistrate, Karimangalam, in Crl.M.P.No.3100 of 2024 in Crime No.199 of 2024 is set aside. In view of the same, the respondent is directed to return the vehicle viz., JCB bearing its Regn.No.TN-29-CU-9114 to the petitioner on the following conditions:

(i) The petitioner shall execute a personal bond for a sum of Rs.20,00,000/- (Rupees Twenty Lakhs only) with two sureties for a likesum to the satisfaction of the learned District Munsif-cum-Judicial Magistrate, Karimangalam;

(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 District Munsif-cum-Judicial Magistrate, Karimangalam, shall peruse the RC book and other records, retain a xerox copy of the same and return



Crl.R.C.No.2316 of 2024

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.

02.01.2025

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

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Note: Issue Order copy by 07.01.2025.

To

1.The District Munsif-cum-Judicial Magistrate,
Karimangalam.



Crl.R.C.No.2316 of 2024

2.The Sub-Inspector of Police,
Karimangalam Police Station,
Dharmapuri District.

3.The Public Prosecutor,
High Court, Madras.



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Crl.R.C.No.2316 of 2024

SUNDER MOHAN, J.

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Crl.R.C.No.2316 of 2024

02.01.2025