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Crl.R.C(MD)No.1404 of 2024

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 20.12.2024

Pronounced on : 29.01.2025

CORAM:

THE HONOURABLE MR.JUSTICE P.VADAMALAI

Crl.R.C(MD)No.1404 of 2024

Surya

... Petitioner

Vs.

State through
The Inspector of Police,
Vangal Police Station,
Karur District.
(Crime No.55 of 2024)

... Respondent

PRAYER : This Criminal Revision Case has been filed under Sections 438 r/w 442 of BNSS, to call for the records pertaining to the order dated 20.11.2024 made in Crl.M.P.No.1449 of 2024 passed by the learned Judicial Magistrate No.2, Karur, Karur District and to set aside the condition No.3 alone and consequently direct the learned Judicial Magistrate No.2, Karur, Karur District to release the Ashok Leyland Tipper Lorry bearing registration number TN-33-AV-1117 to the petitioner.

For Petitioner : Mr.B.Santhanam Rajesh Kumar

For Respondent : Mr.M.Vaikkam Karunanithi
Government Advocate (Crl.side)



ORDER

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This Criminal Revision Case is directed against the condition No.3 imposed in the order, dated 20.11.2024 passed in Crl.M.P.No.1449 of 2024 on the file of the learned Judicial Magistrate No.2, Karur and to set aside the same and to release the Tipper Lorry bearing registration number TN 33 AV 1117 to the petitioner on interim custody.

2.The brief facts of the case:

The Tipper Lorry bearing registration number TN 33 AV 1117 was seized by the respondent police on 08.02.2024 on the ground that the vehicle was used for loading 2 units of river sand without any permission for illegal transportation. A case was registered in Crime No.55 of 2024 U/s 379 of IPC and U/s.21(1) of MMDR Act. The petitioner has filed the petition in Crl.M.P.No.1449 of 2024 before the Judicial Magistrate No.2, Karur for return of Tipper Lorry on interim custody and the said petition was allowed on 20.11.2024 on the following conditions:

- (i) The petitioner shall execute a bond for Rs.2,00,000/- (Rupees Two Lakhs only) with one surety for Rs..25,000/-.
- (ii) The surety shall affix his photo and thumb impression on security bond along with cell phone number and shall also submit his copy of aadhaar card.



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Crl.R.C(MD)No.1404 of 2024



(iii) The petitioner shall execute Panchanama and produce original RC book of the vehicle before the Court.

(iv) The petitioner shall produce the vehicle before the court on 1st day of every month.

(v) The petitioner shall not alienate or change the physical feature of the vehicle.

3. Aggrieved by the condition No.3 of the order, the petitioner has come forward with this present Criminal Revision Case.

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 revision petitioner has submitted that the petitioner is the owner of the vehicle. The petitioner's original RC book is under the custody of private finance company as he borrowed loan. The petitioner is able to produce the photocopy of the RC Book and that may be taken as secondary evidence. The Hon'ble Apex Court has also held that the original RC Book need not be produced and in lieu thereof, secondary evidence may be produced. The learned counsel has further submitted that upon such condition, this Court has already passed orders modifying the condition that the certified copy of the RC Book along



Crl.R.C(MD)No.1404 of 2024

with letter of financier stating that the RC book is in their possession are enough. The learned counsel relied on the order passed by this Court in **Crl.R.C(MD)No.711 of 2024, dated 29.07.2024** and in **Crl.R.C.(MD) No.856 of 2024, dated 09.09.2024.**

6. The learned Government Advocate (Criminal Side) appearing for the respondent has not raised any serious objection.

7. On hearing and perusal of records, it is clear that the petitioner is the owner of the Tipper Lorry in question and the same was seized by the respondent police on 08.02.2024 alleging that the vehicle was used for illegal loading of river sand and the vehicle was remanded before the concerned Judicial Magistrate Court. Thereafter, the petitioner filed the petition for interim custody of the vehicle and the same was allowed by the Judicial Magistrate Court No.2 Karur, on conditions. One of the conditions is that the petitioner shall produce the original RC, which would not be complied with by the petitioner stating that the original RC is with the private finance company. In such circumstances, this Court has already dealt with and passed orders as could be seen from the copy of orders produced by the petitioner's side. These facts along with the orders of this Court relied on by the petitioner are considered. The



Crl.R.C(MD)No.1404 of 2024

Hon'ble Supreme Court issued guidelines in the **Sunderbhai Ambalal Desai case** reported in **2003 (1) CTC 175** in respect of return of seized properties. Considering the overall facts and circumstances of the case, this Court is inclined to modify the conditions.

8. Accordingly, this Criminal Revision Case is allowed, and the condition No.3 passed in the order, dated 20.11.2024 in Crl.M.P.No.1449 of 2024 on the file of the learned Judicial Magistrate No.2, Karur, is hereby set aside and the same is modified as follows:

"The petitioner shall produce self attested photocopy of the RC Book relating to the Tipper Lorry in question bearing registration No.TN-33-AV-1117 along with letter of the private finance/Sri Alahar Auto Finance, Karur regarding possession of the original RC Book as mentioned by the petitioner. Further, the petitioner shall execute Panchanama."

9. All the other conditions imposed by the learned Judicial Magistrate No.2, Karur shall remain as such.

29.01.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
VSD



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Crl.R.C(MD)No.1404 of 2024

To

1. The Judicial Magistrate No.2,
Karur, Karur District.
2. The Inspector of Police,
Vangal Police Station,
Karur District.
(Crime No.55 of 2024)
3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.



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Crl.R.C(MD)No.1404 of 2024

P.VADAMALAI, J.

VSD

Pre - Delivery Order made in
Crl.R.C(MD)No.1404 of 2024

29.01.2025