



Crl.R.C.No.1461 of 2023

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.08.2023

CORAM

THE HONOURABLE MRS. JUSTICE **R. HEMALATHA**

Crl.R.C.No.1461 of 2023

Thamburaj

... Petitioner

Vs.

State by Inspector of Police,
Amaravathi Police Station,
Tirupur District.
(Crime No.48 of 2023)

... Respondent

Prayer : Criminal Revision Case filed under Section 397 and 401 of Criminal Procedure Code to set aside the order passed in Crl.M.P.No.3969/2023 in Crime No.48/2023 dated 19.07.2023 on the file of the learned Judicial Magistrate-1, Udumalapet.

For Petitioner : Mr.R.Babu

For Respondent : Mr.R.Vinothraja, GA (Crl. Side)

ORDER

Challenging the orders dated 19.07.2023 in Crl.M.P.No.3969/2023 passed by the learned Judicial Magistrate No.1, Udumalapet, the present revision is filed.

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2. The case of the prosecution is that on 12.04.2023, at about 04.15 P.M, when the revenue officials were conducting field inspection at Andiyakavundanur Village, Udumalpet Sub Division, they found the accused transporting gravel sand in two tipper lorries bearing registration Nos.TN 21 AW 1739 and TN 78 T 9227 without any license and seized the said vehicles. They also lodged a complaint with the Inspector of Police, Amaravathi Nagar Police Station. The respondent police received the said complaint and registered FIR in Crime No.48 of 2023 for the offences punishable under Section 379 IPC r/w. 21(1) of the Mines and Minerals (Development and Regulation) Act, 1957 and arrested the accused.

3.The revision petitioner filed a petition in Crl.M.P.No.3969/2023 on the file of the learned Judicial Magistrate No.1, Udumalpet, under Sections 451 & 457 Cr.P.C seeking return of tipper lorry bearing Reg No.TN 78 T 9227. The learned Judicial Magistrate No.1, Udumalpet vide orders dated 19.07.2023 dismissed the

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WEB COPY said petition, challenging which, this criminal revision is filed.

4. Mr.R.Babu, learned counsel for the revision petitioner contended that the revision petitioner is not involved in the offence and that he is the owner of the vehicle. His further contention is that if the lorry is kept in an open space the value of the same will diminish over a period of time and hence, prayed for return of the same.

5. Mr.R.Vinothraja, learned Government Advocate (Crl. Side) did not raise any serious objection to return the vehicle to the present petitioner.

6. It is relevant to refer to a decision of the Hon'ble Supreme Court in *Sunderbhai Ambalal Desai and others Vs. State of Gujarat* reported in (2002) 10 SCC 283 in which it is held thus :

“Vehicles

“In our view, whatever be the situation, it is of no use to keep such seized vehicles at the police stations for a



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long period. It is for the Magistrate to pass appropriate orders immediately by taking appropriate bond and guarantee as well as security for return of the said vehicles, if required at any point of time. This can be done pending hearing of applications for return of such vehicles.

In case where the vehicle is not claimed by the accused, owner, or the insurance company or by third person, then such vehicle may be ordered to be auctioned by the Court. If the said vehicle is insured with the insurance company, then insurance company be informed by the Court to take possession of the vehicle, which is not claimed by the owner or a third person. If insurance Company fails to take possession the vehicles may be sold as per the direction of the Court. The Court would pass such order within a period of six months from the date of production of the said vehicle before the Court. In any case, before handing over possession of such vehicles, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared.”

7. Considering the ratio laid down by the Hon'ble Supreme Court, this Court is inclined to allow the Revision. Accordingly, this



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Criminal Revision Case is allowed and the impugned order dated 19.07.2023 in Crl.M.P.No.3969/2023 passed by the learned Judicial Magistrate No.1, Udumalpet is set aside. Learned Judicial Magistrate No.1, Udumalpet is directed to return the tipper lorry of the petitioner subject to the following conditions :

- i) the petitioner shall prove the ownership of the vehicle by producing R.C.Book and other relevant records;
- ii) the R.C.Book shall be deposited in the Court and the Court shall issue a certificate in this regard.
- iii) the petitioner shall execute a bond for a sum of Rs.1,00,000/- (Rupees One Lakh Only) before the learned Judicial Magistrate No.1, Udumalpet.
- iv) the Court may prepare a panchanama in Judicial Form No.82 with regard to the vehicle bearing Reg.No. TN 78 T 9227 and such panchanama can be used in evidence.
- v) the Court shall take photograph of the vehicle bearing Reg.No. TN 78 T 9227 and certify the same under Section 65B of the Central Act 1 of 1972 and such photographs may be used as secondary evidence.
- vi) the petitioner shall not alienate or encumber the vehicle in any manner whatsoever;



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viii) the petitioner shall also produce the vehicle as and when required by the court below or by the respondent police.

28.08.2023

(2/2)

Index: Yes/No
Internet: Yes/No
Speaking/Non-Speaking order
mtl

Issue order copy on 30.08.2023

To

- 1.The Judicial Magistrate No.1, Udumalapet.
- 2.The Inspector of Police, Amaravathi Police Station, Tirupur District.



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R. HEMALATHA, J.
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