



Crl.R.C.(MD).No.888 of 2023

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

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Dated : 16.08.2023

CORAM

THE HONOURABLE MR.JUSTICE K.K.RAMAKRISHNAN

Crl.RC(MD)No.888 of 2023

R.S.Rajeesh

... Petitioner/Accused No.3/
owner of the vehicle

Vs.

State Rep by
The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
(Crime No.146 of 2023)

... Respondent/Respondent/
Complainant

PRAYER: Criminal Revision Petition has been filed under Section 397 r/w 401 of Cr.P.C., to call for the records pertaining to the order passed in Cr.M.P.No. 4751 of 2023, dated 02.08.2023, passed by the Judicial Magistrate Court, Alangulam at Tenkasi District and set aside the conditions 1, 2 and 8 alone as onerous that is (1) to execute a bond worth of Rs.15,00,000/-, (2) to pay 1/4th of the total cost Rs.2,67,211/- incurred by the respondent for disposal of the medical waste and (8) to produce the vehicle once in every first working day of the month before the Court.

For Petitioner : Mr.Aayiram K.Selvakumar

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



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ORDER

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The Criminal Revision Case is filed against the order passed in Cr.M.P.No. 4751 of 2023, dated 02.08.2023 on the file of the Judicial Magistrate Court, Alangulam at Tenkasi District, imposing onerous conditions on the petition filed under Section 451 Cr.P.C, seeking interim custody of the petitioner's vehicle namely, Bharath Benz Lorry bearing Reg.No.KL-21-U-3709.

2. According to the prosecution, the petitioner and others collected the medical waste from Kottaiyam, Kerala State and transported the same by crossing the border of Tamil Nadu without permission and dumped the said medical waste in the jurisdiction of the defacto complainant's village namely, Kuruvankottai in Alangulam - Tirunelveli road as against the Rule 4 of Bio Medical Waste Managements Rules, 2016, and Rule 8 of Plastic Waste Managements Rules, 2016. The same was questioned by the defacto complainant, namely, the Regional Health Supervisor of Nettur and the petitioner and the other accused got infuriated and abused the defacto complainant and the other officials and criminally intimidated them and obstructed them from doing their lawful duty. Therefore, the defacto complainant gave a complaint before the respondent police. The respondent police received the complaint and registered a



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case in Crime No.146 of 2023 for the offence under Sections 294(b), 353, 506(ii) of IPC r/w Rule 4 of Bio Medical Waste Managements Rules, 2016, and Rule 8 of Plastic Waste Managements Rules, 2016, against the petitioner and three others. Thereafter, the respondent police seized the Bharath Benz Lorry bearing Reg.No.KL-21-U-3709 and produced it before the learned jurisdictional Magistrate.

3. The petitioner is arrayed as A3 in this case and he has filed a petition in Cr.M.P.No.4751 of 2023 before the Judicial Magistrate Court, Alangulam at Tenkasi District, to seek interim custody of the Lorry. The learned trial Judge by the order dated 02.08.2023, granted interim custody of the vehicle by imposing 9 conditions. The petitioner filed this revision challenging the condition No.1, 2 and 8 viz., :-

(1) to execute a bond worth of Rs.15,00,000/-,

(2) to pay 1/4th of the total cost Rs.2,67,211/- incurred

by the respondent for disposal of the medical waste and;

(8) to produce the vehicle once in every first working day of the month before the Court.



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4.The learned trial Judge after considering the counter and the averments stated in the petition, passed the following order:-

“1.மனுதாரர் தானும் தனக்காக ஒரு நபரும் ரூ.15,00,000/- (ரூபாய் பதினைந்து லட்சத்திற்கு மட்டும்) மினைப்பத்திரம் எழுதி தர வேண்டும்.

2.மருத்துவ கழிவுகளை அழித்ததற்கான செலவு தொகையான ரூ.2,67,211/- பணத்தில் நான்கில் ஒரு பங்கினை திருநெல்வேலி மாவட்டம் நாங்குநேரி செல்லும் பாதையில் மாசு கட்டுப்பாடு வாரியத்தின் கட்டுப்பாட்டில் இயங்கும் நிறுவனமான Aspetic Systems Bio Medical Waste Management Company -ல் செலுத்தி அதற்கான ரசீதை இந்நீதிமன்றத்தில் தாக்கல் செய்ய வேண்டும்.

3.மேற்படி வாகனம் முப்பரிமாணம் தெளிவாக தெரியும் வண்ணம் மனுதாரருடன் சேர்ந்து புகைப்படம் எடுத்து அதில் மனுதாரரும், விசாரணை அதிகாரியின் கையொப்பம் இட்டு குறந்தகருடன் இந்நீதிமன்றத்தில் ஒப்படைக்க வேண்டும்.

4.வழக்கு விசாரணையின் போதோ அல்லது இந்நீதிமன்றம் உத்தரவிடும் போதோ, மேற்படி வாகனத்தை இந்நீதிமன்றத்தில் ஒப்படைக்க வேண்டும்.

5. மேற்படி வாகனத்தை எந்த குற்ற செயலிலும் ஈடுபடுத்தக் கூடாது.

6.மேற்படி வாகனத்தை விற்பனை செய்யவோ, அடமானம் வைக்கவோ, உருமாற்றம் செய்யவோ கூடாது. மேற்படி வாகனத்தின் வண்ணத்தை மாற்றவும் கூடாது.

7. மேற்படி வாகனத்தின் அசல் ஆர்சி புத்தகத்தை இந்நீதிமன்றத்தில் ஒப்படைக்க வேண்டும் என்ற உத்தரவிடப்படுகிறது.

8. மேற்படி வாகனத்தை ஒவ்வொரு மாதம் முதல் வேலை நாள் காலை 10.00 மணிக்கு இந்நீதிமன்றத்தில் மறு உத்தரவு வரும் வரை ஆஜர்படுத்த வேண்டும்.

9.மனுதாரர் வாகனத்தை பெறுவதற்கு நீதிமன்றத்தில் உரிய



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பஞ்ச நாமா எழுதி கொடுக்க வேண்டும்.

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இறுதியாக, இம்மனுவில் குறிப்பிடப்பட்டுள்ள வழக்கு சொத்தான
KL 21 U 3709 என்ற பதிவு எண் கொண்ட Bharath Benz என்ற
வாகனம் இம்மனுதாரருக்கு இடைக்காலமாக
ஒப்படைக்க இந்நீதிமன்றத்தால் உத்தரவிடப்படுகிறது.

5. The learned counsel for the petitioner submitted that the conditions 1, 2 and 8 i.e., (1) to execute a bond worth of Rs.15,00,000/-, (2) to pay 1/4th of the total cost Rs.2,67,211/- incurred by the respondent for disposal of the medical waste and (8) to produce the vehicle once in every first working day of the month before the Court, imposed by the Judicial Magistrate Court, Alangulam at Tenkasi District, in Cr.M.P.No.4751 of 2023, dated 02.08.2023, are onerous. He would further submit that the petitioner was granted anticipatory bail by this Court, in Crl.OP(MD)No.9974 of 2023 on 08.06.2023 with condition to deposit a sum of Rs.50,000/- and the same has been complied with. Hence, he seeks to set aside the order passed by the learned trial Judge.

6. The learned Government Advocate (Crl.Side) submitted that the Investigation Agency completed the investigation and filed final report before the Jurisdictional Court. Pending the same, the learned counsel for the petitioner filed Cr.M.P.No.4751 of 2023 seeking interim custody of the vehicle. The said



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petition was contested by the Investigation Agency by filing counter stating that after recovery of the vehicle, the Pollution Control Department, Nanguneri, Tirunelveli District, has incurred the expenditure of Rs.2,67,211/- for disposal of Medical Waste. The said amount was not paid by the petitioner. Only the fifth accused has paid a sum of Rs.50,000/-. Considering the said situation, the learned trial Judge imposed the conditions and the same was in accordance with law. He would further submit that the vehicle is involved in the transportation of Medical Waste from the State of Kerela. There is total prohibition to transport the medical waste as per the Bio Medical Waste Managements Rules, 2016.

7. Applying the polluter-pay principle, the learned trial Judge correctly imposed the conditions. Even as per the **Sunderbhai Ambalal Desai v. State of Gujarat, (2002) 10 SCC 283**, the Court has power to impose the conditions. Hence, he prays for dismissal of this Revision.

8. This Court considering the rival submission and also perused the materials available on record.



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9. As per the allegation of the respondent, the petitioner is said to have transported Plastic Bio Medical Waste from the State of Kerala to the State of Tamil Nadu in contravention Bio Medical Waste Managements Rules, 2016, and hence, he committed the offences under Sections 294(b), 353, 506(ii) of IPC r/w Rule 4 of Bio Medical Waste Managements Rules, 2016, and Rule 8 of Plastic Waste Managements Rules, 2016. The further case of the Investigation Agency is that the Pollution Control Department, Nanguneri, Tirunelveli District, has spent a sum of Rs.2,67,211/- for disposal of the said waste.

10. As per the Rule 5, 7, 8, 10 of the Bio Medical Waste Managements Rules, 2016, every occupier shall set up Bio Medical Waste Equipment. In the absence of the said facility, the occupier shall dispose the same through the service of “Common Bio Medical Waste Treatment Facility” available at the distance of 75 km. Number of other Rules also are there to segregate, package, transport and store. Dehors the same, the petitioner transported the Medical Waste and dumped in the village affecting the environment of the village and also causing epidemic in the locality. The Hon'ble Division Bench of the Madras High Court also specifically prohibited from bringing the Medical Waste from the State of Kerala to the State of Tamil Nadu and also directed all the



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Government Officials to prevent the said transportation of the Medical Waste. In the said circumstances, to avoid the health hazard due to the dumping of the Medical Waste, the defacto complainant destroyed the Medical Waste through the Bio Medical Waste Centre at the cost of Rs.2,67,211/-. The learned trial Judge only directed to deposit $\frac{1}{4}$ of the above said amount. Hence, the said condition is not onerous. Looking from another angle, as per the Polluter-Pay Principle laid down by the Hon'ble Supreme Court, the petitioner is liable to incur the expenditure for protection of environment. Therefore, the condition imposed by the learned trial Judge is in accordance with law.

11. The learned trial Judge only directed to execute the bond to the value of Rs.15,00,000/-. The vehicle involved in the offence is a Bharath Benz Lorry. Considering the value of the lorry, the condition imposed by the learned trial Judge to execute the bond for a sum of Rs.15,00,000/- is not onerous. The learned trial Judge has not directed the petitioner to deposit the amount but only directed to execute the bond. Therefore, the condition No.1 is in accordance with law.

12. The learned trial Judge after considering the involvement of the petitioner's vehicle in the grievous offence of polluting the environment,



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imposed the condition to produce the vehicle at 10.00 a.m on the first working day of every month is not onerous one. The said direction is only to prevent the vehicle from involving in further offences.

13. The Hon'ble Supreme Court in the case of **Sunderbhai Ambalal Desai v. State of Gujarat** reported in **(2002) 10 SCC 283**, issued a direction to release the vehicle on conditions. Therefore, as per law laid down by the Hon'ble Supreme Court in the above said case, the learned trial Judge correctly imposed the conditions. Hence, this Court concur with the reasoning of the learned trial Judge in imposing the conditions and hence, this Court is not inclined to entertain this Revision.

14. Accordingly, the order passed by the Judicial Magistrate Court, Alangulam at Tenkasi District, in Cr.M.P.No.4751 of 2023, dated 02.08.2023 is hereby confirmed and the Criminal Revision Case stands dismissed.

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NCC : Yes/No
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K.K.RAMAKRISHNAN, J.

dss

To

- 1.The Judicial Magistrate Court, Alangulam,
Tenkasi District.
- 2.The Inspector of Police,
Alangulam Police Station,
Tenkasi District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- 4.The Section Officer,
Criminal Record,
Madurai Bench of Madras High Court,
Madurai.

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