



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 08.06.2015

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CORAM:
THE HONOURABLE MR.JUSTICE S.NAGAMUTHU

Cr1.R.C.(MD)No.124 of 2015

Cholamandalam Investments and Finance Ltd.,
Rep.by Authorized Signatory,
Koil Anantharaj ... Petitioner

Vs.

1.The Inspector of Police,
CSCID Madurai,

2.Chelladurai

3.The District Revenue Officer,
Sivagangai District.

(R3 is suo motu impleaded as respondent vide order dated
31.03.2015) ... Respondents

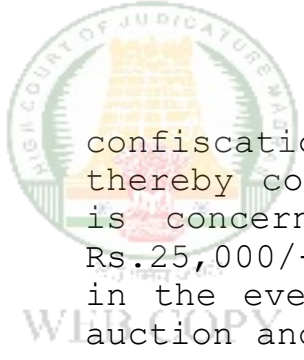
PRAYER: This Criminal Revision Case is filed under Section 397 r/w
401 of Cr.P.C., against the order dated 26.03.2014 made in
Cr1.M.P.No.2739 of 2014 on the file of the Judicial Magistrate
No.I, Sivagangai.

For Petitioner : Mr.B.Janarth Kumar

For Respondents : Mr.C.Ramesh, APP for R1 and 3
Mr.K.Chengiz Khan for R2

ORDER

The 2nd respondent herein Mr.Chelladurai entered into a hypothecation agreement with the petitioner herein and purchased the EICHER vehicle bearing registration No.TN-63/U 3555. The said vehicle was seized by the 1st respondent herein in connection with the case in Crime No.438 of 1010 on the allegation that the said vehicle was used for the purpose of transporting 87 bags of PDS rice, which, according to the first respondent, is an offence punishable under Section 7 of the Essential Commodities Act. Later on, the District Revenue Officer, Sivagangai District / 3rd respondent herein, initiated confiscation proceedings to confiscate the contraband namely, the rice bags as well as the vehicle.



confiscation under Section 6(A) of the Essential Commodities Act, thereby confiscating the entire rice bags. So far as the vehicle is concerned, the District Revenue Officer imposed a fine of Rs.25,000/-. The District Revenue Officer further directed that in the event the fine is not paid, to sell the vehicle in public auction and to recover the amount.

3.It is also brought to my notice that even before the above confiscation order could be passed by the District Revenue Officer, interim custody of the vehicle was given to the petitioner. Accordingly, the vehicle is now under the custody of the petitioner.

4.Subsequently, the petitioner filed Crl.M.P.No.2739 of 2014 before the learned Judicial Magistrate No.I, Sivagangai, seeking permission to sell the vehicle, as he is entitled to do the same, as per the hypothecation agreement. In the said petition itself, the petitioner expressed his willingness to pay Rs.25,000/- imposed as fine by the District Revenue Officer. But, the learned Judicial Magistrate has dismissed the said petition by order dated 26.03.2014. Challenging the said order, the petitioner is before this Court with this petition.

5.I have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the 1st respondent and the learned counsel appearing for the 2nd respondent and also perused the records carefully.

6.The learned counsel for the petitioner would submit that the petitioner is prepared to pay Rs.25,000/- imposed as fine on behalf of the 2nd respondent. The 2nd respondent has filed a memo through his counsel, wherein he has stated that he has got no objection for the petitioner to pay Rs.25,000/- as fine as against the fine imposed on him. He further submitted that after paying the said amount, the petitioner may be permitted to sell the vehicle and to adjust the sale proceeds as against the loan amount. The said memo is recorded. The learned counsel for the 2nd respondent would reiterate the same.

7.The learned Additional Public Prosecutor has no objection for the petitioner to pay the fine amount.

8.I have considered the above submissions.

9.As I have already pointed out, the District Revenue Officer has not passed any order confiscating the vehicle. He has only imposed fine on the 2nd respondent. Only in the event the fine is not paid, in order to recover the fine amount, the vehicle could be sold. Now that the 2nd respondent has stated that he is not in a position to pay the fine amount and he has got no

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objection for the petitioner to pay the same. Since the petitioner has got hypothecation agreement and has to sell the vehicle, it will be in the interest of justice to permit the petitioner to pay the fine amount.

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10. In the result, the Criminal Revision petition is allowed. The impugned order dated 26.03.2014 in CrI.M.P.No.2739 of 2014 passed by the learned Judicial Magistrate No.I, Sivagangai is set aside and the petitioner is permitted to sell the vehicle or to dispose of the same in any manner, for which he is legally entitled to only after paying Rs.25,000/- as against the fine imposed by the District Revenue Officer against the 2nd respondent. The District Revenue Officer shall receive the fine amount of Rs.25,000/- from the petitioner to be paid in the name of the third respondent and issue a receipt for the same.

Sd

ASST REGISTRAR - CO

TRUE COPY

SUB ASST REGISTRAR

nbj

To

1.The Judicial Magistrate No. I, Sivagangai.

2.The Inspector of Police,
CSCID Madurai,

3.The District Revenue Officer,
Sivagangai District.

4. The Addl. Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.

1cc to mr. B. JANARTH KUMAR, ADV SR; 38544
DM 06 JULY 2015

CrI.R.C.(MD)No.124 of 2015

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