



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 30.01.2015

CORAM:

WEB COPY

THE HONOURABLE MR.JUSTICE M.SATHYANARAYANAN

Cr1.R.C.(MD)NO.32 of 2015

P.Puthiyaraj .. Revision Petitioner/ Petitioner

Vs.

State represented by
The Sub-Inspector of Police,
Dhalavai Puram Police Station,
Cr.No.684 of 2014,
Virudhunagar District.

... Revision Respondent/
Respondent

Prayer: Criminal Revision Petition filed under Section 397 r/w 401 Cr.P.C., to call for the records from the lower Court and to duly set aside the condition No.1 in the order passed by the learned Judicial Magistrate, Rajapalayam, Virudhunagar District in Cr1.M.P.No.7831 of 2014 dated 13.01.2015.

For Petitioner : Mr.V.Kathirvelu
Senior Counsel
for Mr.K.Prabhu

For Respondent : Mr.P.Kandasamy
Government Advocate(Cr1.side)

ORDER

By consent, this Criminal Revision Case is taken up for final disposal at the stage of admission itself.

2. The petitioner claims to be the owner of the Swaraj Tractor bearing Registration No.TN-76-U-6765 and unregistered Trailer and according to him, on 17.12.2014, the vehicle was seized in connection with the alleged transportation of earth bar/savdu sand and therefore, he has prosecuted by the respondent police in Cr.No.684 of 2014 for the alleged commission of offence under Section 379 I.P.C. r/w 21(1) of Mines and Minerals (Regulation and Development) Act 1957.

3. The petitioner filed a petition in Cr.M.P.No.7831 of 2014 praying for return of vehicle on the file of the Court of Judicial Magistrate, Rajapalayam and it was ordered subject to six conditions. The petitioner, aggrieved by the imposition of condition No.1 which stipulates that the petitioner along with the



respondent police shall produce the vehicle within a period of one week from the date of order before the Revenue Divisional Officer and the proceedings to be completed in accordance with law, came forward to file this Criminal Revision Case.

4. Mr.V.Kathirvelu, learned Senior Counsel appearing for the petitioner would contend that as per the condition No.1, the petitioner is called upon to compound the offence and it is his option to do so or contest the matter and in any event, he cannot be compelled to appear before the Revenue Divisional Officer along with the vehicle in question and hence, prays for deletion of the said condition.

5. Per contra, the learned Government Advocate(Crl.Side) for the respondent would submit that the petitioner, under the guise of using the Tractor, has transported the sand in an illegal manner, which resulted in registration of the case and taking into consideration the public interest also, such condition was imposed.

6. This Court after hearing the rival contentions made by the learned Senior Counsel appearing for the petitioner and the learned Government Advocate (Crl.Side) for the respondent, is of the view that the condition No.1 has to be deleted. As rightly pointed out by the learned Senior Counsel appearing for the petitioner, it is the option of the petitioner either to compound the offence or to contest the case and the purpose for which the condition No.1 imposed, seems to be directing him to compound the offence. In the considered opinion of this Court, he cannot be directed to do so.

7. In the result, the Criminal Revision Case is partly allowed and the condition No.1 imposed in the order dated 13.01.2015 made in Cr.M.P.No.7831 of 2014 is set aside and the remaining conditions imposed by the lower Court, stand confirmed.

Sd/

Assistant Registrar(C.O)

/True Copy/

Sub-Assistant Registrar

To

1. The Judicial Magistrate, Rajapalayam, Virudhunagar District.
 2. The Sub-Inspector of Police,
Dhalavai Puram Police Station, Virudhunagar District.
 3. The Additional Public Prosecutor,
Madurai Bench of Madras High Court, Madurai.
- +One cc to Mr.K.Prabhu, Advocate, SR.No.4135

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RL/5 c- 6/2/2015

Crl.R.C.(MD)NO.32 of 2015