

THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 22.09.2016

CORAM

THE HONOURABLE MR. JUSTICE P.N.PRAKASH

Crl.O.P.No.20805 of 2016

Sohib Pasha

... Petitioner

-Versus-

The Sub Inspector of Police,
Sathyamangalam Police Station,
Sathyamangalam.

... Respondent

Criminal Original Petition filed under Section 482 of Cr.P.C. praying to direct the respondent to handover the interim custody of the lorry having registration number KA 26 4752, Engine No.NDIT 329299 and Chassis No.MDA 053004 which was seized in connection with the case in Crime No.108 of 2016 on the file of the respondent police to the petitioner.

For Petitioner : Mr.A.V.Arun
For Respondent(s) : Mr.C.Emalias

ORDER

This petition has been filed seeking interim custody of the of the lorry bearing Regn. No.KA 26 4752, which was seized in connection with the case in Crime No.108 of 2016 on the file of the respondent police, to the petitioner.

2. On 06.03.2016, when the police were on routine vehicle check-up, they intercepted a lorry bearing registration No. KA 26 4752 and on checking, the lorry was found to contain crusher sand without license, the transport of which is punishable under the Mines and Minerals Act. A case in Crime No.108 of 2016 was registered by the respondent police on 06.03.2016 under Sections 379, 468 and 420 of IPC r/w 20(i) [mistakenly typed for Section 21] of the Mines and Minerals Act against Moorthy, the driver of the said lorry and arrested him. The lorry carrying the crusher sand was also seized by the police. The petitioner who is the owner of the said lorry filed an application in Crl.M.P.No.2077 of 2016 before the Judicial Magistrate,

Sathyamangalam, under Section 451 of Cr.P.C. for interim custody of the lorry, but the same was dismissed by the learned Magistrate on 09.05.2016. Aggrieved by which, the petitioner is before this court.

3. Heard Mr.A.V.Arun, the learned counsel for the petitioner and Mr.C.Emalias, the learned Additional Public Prosecutor for the respondent and also perused the records carefully.

4. The learned Magistrate has dismissed the application of the petitioner on the short ground that he does not have jurisdiction to try the case and only the Special Court can try the case. It is seen that no such Special Court has been constituted in the State of Tamil Nadu pursuant to the amendments made in the Mines and Minerals [Development and Regulation] Act, 1957 and until then, the case is triable only by the Magistrate.

5. In view of the above, this original petition is allowed and the order dated 09.05.2016 made in CrI.M.P.No.2077 of 2016 is hereby set aside and the matter is remanded back to the learned Judicial Magistrate, Sathyamangalam, Erode District, who shall hear the case afresh and pass appropriate order in accordance with law.

Sd/-

Assistant Registrar(CS VI)

//True Copy//

Sub Assistant Registrar

kmk

To

1.The Judicial Magistrate,
Sathyamangalam,
Erode District.

2.The Sub Inspector of Police,
Sathyamangalam Police Station,
Erode District.

3.The Public Prosecutor,
High Court, Chennai.

+1cc to Mr.A.V.Arun, Advocate, S.R.No.54095

CrI.O.P.No.20805 of 2016

CTK(CO)

CA(04/10/2016)