

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 07.10.2016

CORAM

THE HONOURABLE Mr.JUSTICE P.KALAIYARASAN

Crl.O.P.No.22938 of 2016

Saravanan

..Petitioner/A-3

Vs.

State rep by

The Inspector of Police,
Hasanur Police Station,
Erode District.

..Respondent/Complainant

Criminal Original Petition filed under Section 482 Cr.P.C., to set aside the docket order passed by the Learned Judicial Magistrate, Sathiyamangalam in C.M.P.No.2457/2016 dated 03.08.2016 to release the petitioner's vehicle lorry bearing Regn.No.TN 29 BY 0451.

For Petitioner : Mr.S.Parthasarathy

For Respondent : Mr.C.Emalias, APP

O R D E R

This Criminal Original Petition has been filed under Section 482 of Code of Criminal Procedure, 1973 praying to to set aside the docket order passed by the Learned Judicial Magistrate, Sathiyamangalam in C.M.P.No.2457/2016 dated 03.08.2016 to release the petitioner's vehicle lorry bearing Regn.No.TN 29 BY 0451.

2. Heard both sides.

3. It is averred in the petition that the vehicle involved in Crime No.3 of 2016 under Section 379, 468 and 420 IPC r/w 20[1] of Mines and Minerals Act has been seized by the respondent-Police. When the petitioner moved the concerned Judicial Magistrate, for return of the vehicle under Section 451 Cr.P.C., the learned Judicial Magistrate had not entertained the application by making an endorsement that the offence is triable by the Special Court as per Section 30-B of the Mines and Minerals [Development and Regulations] Act, 1957.

4. Learned counsel for the petitioner represents that the application filed before the learned District and Sessions Judge, Erode was also returned with an endorsement saying that, "How the petition is maintainable when the case is pending before the Judicial Magistrate, Sathiyamangalam.".

5. Learned Additional Public Prosecutor represents that Special Court has not yet been constituted under Section 30-B of the Act and since the case is pending with the learned Judicial Magistrate, the learned Judicial Magistrate himself may entertain the application.

6. Admittedly, the Special Court has not been constituted under Section 30-B of the Act. It has also been not brought to the notice of this Court, whether any Court in the cadre of District Judge has been conferred with the power under this Act. Now, the case is pending before the learned Judicial Magistrate. Therefore, the learned Judicial Magistrate, Sathyamangalam is directed to entertain the application filed under Section 451 Cr.P.C. and dispose of the application in accordance with law.

With the above direction, this Criminal Original Petition is disposed of.

Sd/-
Assistant Registrar(J)

//True Copy//

Sub Assistant Registrar

gya

To

1.The Judicial Magistrate,
Sathyamangalam.

2. -do- Thro'The Chief Judicial Magistrate, Erode.

2.The Inspector of Police,
Hasanur Police Station,
Erode District.

3.The Public Prosecutor,
High Court, Madras.

+ 1 cc to Mr.S. Parthasarathy, Advocate SR.58024

Cr1.O.P.No.22938 of 2016

SV(CO)

EU 25.10.16