



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 24.06.2016

CORAM:

THE HONOURABLE DR.JUSTICE P.DEVADASS

C.R.L.RC(MD) No.439 of 2016

P.Mahalingam

... Petitioner/Petitioner

-vs-

The State
Rep. by Inspector of Police,
Watrap Police Station,
Virudhunagar District.
(Crime No.232/2016)

... Respondent/Respondent

PRAYER: Criminal Revision Petition is filed, under Section 397 r/w 401 Cr.P.C., praying to set aside the order passed in Cr.M.P.No.2060 of 2016 by the learned Judicial Magistrate No.I, Srivilliputhur dated 20.05.2016.

For Petitioner: Mr.G.Thalaimutharasu

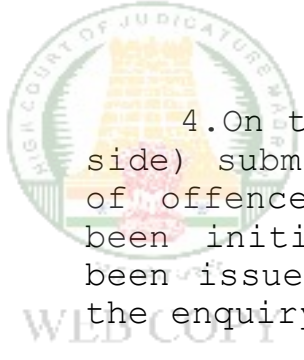
For Respondent: Mrs.S.Prabha
Govt. Advocate (Crl.Side)

O R D E R

The owner/accused challenges dismissal of his property return petition in Crl.M.P.No.2060 of 2016 by the learned Judicial Magistrate No.I, Srivilliputhur.

2.On credible information, a case in Crime No.232 of 2016 has been registered under Section 379 I.P.C. and Section 21(1) Mines and Minerals (Development & Regulation) Act, 1957. Investigation Officer seized a tractor and trailer. Admittedly, the revision petitioner is the owner of the vehicle. The learned Magistrate dismissed the petition on the ground that confiscation proceedings has already been initiated by the R.D.O., Sivakasi.

3.The learned counsel for the petitioner submits that he has been implicated in this case. The vehicle is of considerable value. Unless it is used it will become useless. Possibility of misuse is also there. He is ready to face the confiscation proceedings.



4. On the other hand, the learned Government Advocate (Criminal side) submitted that the vehicle has been used for the commission of offence. To confiscate the vehicle the said proceedings has been initiated before the revenue authorities. Notice has also been issued to the revision petitioner. He has to participate in the enquiry.

5. I have anxiously considered the rival submissions, perused the impugned order and the materials on record.

6. The present physical condition is not conducive for the preservation of the material value of the case property/vehicle.

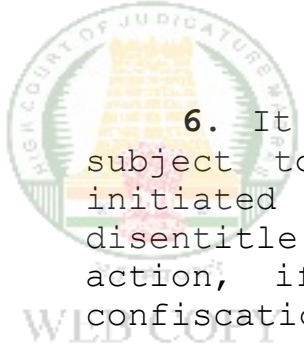
7. The judgment of the Hon'ble Apex Court in **Sunderbhai Ambalal Desai v. State of Gujarat [2003 (1) CTC 175 (SC)]** can be invoked.

8. In as much as confiscation proceedings has been initiated some terms and conditions have to be imposed.

9. In the circumstances, ordered as under:

- i. This criminal revision is allowed.
- ii. The impugned order, dated 20.05.2016, passed in Cr.M.P.No.2060 of 2016, by the learned Judicial Magistrate No.I, Srivilliputhur, is set aside.
- iii. The said Magistrate, will give interim custody of Tractor (TN 63 E 9383) and Trailer (TN 65 H 4834) to the revision petitioner.
- iv. The revision petitioner will execute a personal bond for Rs.2,50,000/- (Rupees Two lakhs Fifty thousand only) to the satisfaction of the said Magistrate.
- v. The car shall be photographed, it shall be signed by the petitioner and it shall be kept in the case records.
- vi. Until final property order is passed by the said Magistrate or the authority before whom confiscation proceedings are pending, the revision petitioner shall not dispose of, alter or change the vehicle.

(vii) The revision petitioner shall cause the production of vehicle as and when so ordered by the said Magistrate/Authorities.



6. It is made clear that this entrustment of the vehicle is subject to the final outcome of the confiscation proceedings initiated by the competent authorities. However, it will not disentitle the revision petitioner from taking any appropriate action, if any, adverse order is passed against him in the confiscation proceedings.

Sd/
Assistant Registrar (T&P)

/True copy/

Sub Assistant Registrar

To:

- 1.The Judicial Magistrate No.I,
Srivilliputhur.
- 2.The Revenue Divisional Officer,
Sivakasi.
- 3.The Government Advocate (Criminal Side)
Madurai Bench of Madras High Court, Madurai.
- 4.Inspector of Police,
Watrap Police Station,
Virudhunagar District.

+1cc to M/s.G.Thalaimutharasu, Advocate in SR.No.32703

SDR/KBM/01.07.2016/3P/6C

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