



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED: 03.08.2017
CORAM

THE HON'BLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C (MD) .No.527 of 2017

Mayandi

... Petitioner/Petitioner/
Owner of the vehicle

-Vs-

The State, represented by
The Sub-Inspector of Police,
Kadupatti Police Station,
Madurai District.
(Crime No.203 of 2017)

... Respondent/Respondent/Complainant

Prayer : Criminal Revision Case filed under Section 397 r/w 401 and 482 of the Code of Criminal Procedure, praying this Court to call for the entire records pertaining to the order passed by the learned Judicial Magistrate, Vadipatti, Madurai District in Crl.M.P.No.52 of 2017 vide his order dated 3/7/2017 and quash the same and consequently direct the learned Judicial Magistrate to return the vehicle namely JCB bearing Registration No.TN 58 AK 2050 in connection with the case in Crime No.203 of 2017 pending on the file of the respondent, to the Petitioner.

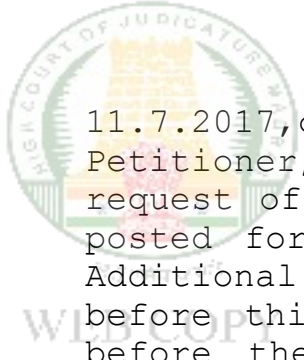
For Petitioner : M/s.M.Pitchai Muthu
For Respondent : Mr.C.Ramesh
Addl. Public Prosecutor

O R D E R

This revision has been filed challenging the order dismissing the Petitioner's application seeking for return of JCB.

2.The Petitioner is the owner of the JCB bearing Registration No.TN 58 AK 2050.The vehicle has been seized by the respondent Police in connection with Crime No.203 of 2017, in which the Petitioner is also an accused. The above complainant has been filed on the ground that the Petitioner has used the JCB for illegal sand mining and the vehicle was also seized on 15.06.2017. Thereafter, the petitioner filed an application before the learned Judicial Magistrate, Vadipatti seeking return of vehicle. The learned Judicial Magistrate dismissed the said application by an order dated 3.7.2017 in Crl.M.P.No.52 of 2017. Challenging the above said order, the Petitioner has filed the above revision on 6.7.2017.

<https://hcservices.ecourts.gov.in/> 3. When the matter came up for admission before this Court, this Court adjourned the matter to 10.7.2017, again at the request of the Petitioner, the matter was adjourned to



11.7.2017, on that date once again at the request of the Petitioner, the case was adjourned by two weeks. Then, at the request of the learned counsel for the Petitioner, the matter was posted for withdrawal on 27.6.2017. At that time, the learned Additional Public Prosecutor submitted that pending revision before this Court, the Petitioner has filed another application before the learned Judicial Magistrate, Vadipatti, seeking for return of vehicle and by order, dated 13.7.2017, the learned Judicial Magistrate allowed the application, handing over the vehicle for interim custody to the Petitioner. In the above circumstances, this Court called for the entire records from the learned Judicial Magistrate, Vadipatti.

4. Today the entire records was received. On perusal of the records, it could be seen that pending revision, the Petitioner once again filed an application on 12.7.2017 in C.M.P.No.113 of 2017 before the learned Judicial Magistrate, Vadipatti seeking return of vehicle and the above application was also opposed by the respondent-Police by filing his objections. But the learned Judicial Magistrate, who earlier dismissed the application on 6.7.2017, has allowed the application on 13.7.2017 and ordered interim custody of the vehicle to the Petitioner.

5. It is a clear case of forum shopping. Earlier, on 6.7.2017, the learned Judicial Magistrate dismissed the application for return of vehicle considering the nature of the offence and it is not known as to how the learned Judicial Magistrate has passed an order allowing the application for return of vehicle to the Petitioner within a period of one week. When the revision petition filed by the Petitioner challenging the earlier order, dated 3.7.2017 is pending before this Court, the Petitioner once again has approached the learned Judicial Magistrate, Vadipatti on 12.7.2017 and the learned Judicial Magistrate also allowed the application on 13.7.2017 without even considering the pendency of the revision before this Court. It is not appropriate on the part of the Petitioner once-again to approach the learned Judicial Magistrate with another application and obtained an order by suppressing the pendency of this revision case. Hence it is a clear case of fraud and the Petitioner is not entitled for any relief as sought for by him. In the above circumstances, this Criminal Revision Case is dismissed.

6. Further, since the Petitioner obtained an order suppressing the pendency of the Criminal Revision Case before this Court, the order passed by the learned Judicial Magistrate Vadipatti in Crl.M.P.No.113 of 2017, dated 13.7.2017 is also set aside and the respondent-Police is directed to seize the Petitioner's JCB bearing Registration No.TN 58 AK 2050 immediately. The Registry is also directed to call for explanation from the learned Judicial Magistrate, Vadipatti how the learned Judicial Magistrate allowed the application filed by the



Petitioner for return of vehicle in CrI.M.P.No.113 of 2017, dated 13.7.2017, when the revision filed by the Petitioner for return of vehicle is pending before this Court.

WEB COPY

Sd/-
Assistant Registrar

/True Copy/

Sub Assistant Registrar

To

- 1.The Judicial Magistrate,
Vadipatti.
- 2.The Sub-Inspector of Police,
Kadupatti Police Station,
Madurai District.
- 3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

COPY TO:

- 1 The Section Officer,
Criminal Section,
Madurai Bench of Madras High Court,
Madurai.
- 2 The Section Officer,
E.R.Section, Madurai Bench of Madras High Court,
Madurai.

CrI.R.C(MD) No.527 of 2017
03.08.2017

vsn
JM/SV MMS/SAR 2/23.08.2017/3P/6C