



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 06.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE V.BHARATHIDASAN

Crl.R.C.(MD) No.709 of 2017

WEB COPY

O.Sakthivel

... Petitioner

Vs.

State,
rep by the Inspector of Police,
Sattur Town Police Station,
Virudhunagar District
(Crime No.424 of 2017)

.. Respondent

Petition filed under Sections 397 read with 401 Cr.P.C, to call for the records of the learned Judicial Magistrate No.II, Sattur in Cr.M.P.No.4140 of 2017 dated 23.08.2017 and to set aside the same and further direct the learned Judicial Magistrate No.II, Sattur to grant interim custody of vehicles viz., Tractor bearing Registration No.TN-69-A 5467 and Trailer bearing No.TN-20-2886 to the petitioner.

For Petitioner
For Respondent

: Mr.P.Saravanakumar
: Mr.C.Ramesh,
Additional Public Prosecutor.

ORDER

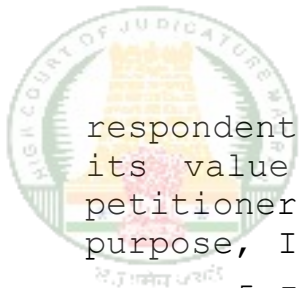
The petitioner is the accused in Crime No.424 of 2017 for the offence under Section 379 IPC read with 21(1) of the Mines and Minerals Act on the file of the respondent police. The above crime has been registered on the ground that the petitioner has illegally transported 1/4 unit of sand from the river and the tractor and trailer, bearing Registration Nos.TN - 69A - 5467 and TN - 20 - 2886, used for transporting the sand were seized. Thereafter, an application has been filed under Section 451 Cr.P.C., seeking return of the vehicle. The Court below has dismissed the application. Challenging the same, the present Criminal Revision Case has been filed.

2.The learned counsel appearing for the petitioner submitted that the petitioner is an agriculturist and he removed sand only for *bona fide* agricultural purpose and he has not taken the sand for commercial purpose and there is no previous case against the petitioner.

3.The learned Additional Public Prosecutor appearing for the respondent submitted that confiscation proceeding is pending before the Revenue Divisional Officer, so far, no order has been passed.

<https://hcservices.ecourts.gov.in/hcservices/>

4.Considering the fact that the vehicle in question has been seized on 15.07.2017 and it was kept in the custody of



respondent police and if the vehicle is exposed to sun and rain, its value would be deteriorated and also considering that the petitioner has used the tractor and trailer only for agricultural purpose, I am inclined to release the vehicle.

5. In fine, this Criminal Revision Case is allowed and the impugned order passed in Crl.M.P.No.4140 of 2017, dated 23.08.2017 by the Court below is set aside and the tractor and trailer, bearing Registration Nos.TN - 69A - 5467 and TN - 20 - 2886, are directed to be handed over to the revision petitioner, on the following conditions:-

i) The Petitioner shall produce proof of ownership of the vehicle;

ii) The Petitioner shall execute a bond for a sum of Rs.5,000/- (Rupees Five thousand only) with two sureties to the satisfaction of the Judicial Magistrate Court No.II, Sattur,

iii) The petitioner shall surrender the R.C.Book and the learned Judicial Magistrate, Sattur is at liberty to return the R.C.Book for renewal of the registration or for insuring the vehicle. The R.C Book can be obtained from the court by filing a petition and after the accomplishment of the purpose, the same should be returned to the court; and

iv) the petitioner shall also file an affidavit of undertaking to the effect that:

a) he will not alienate the vehicle without obtaining an order from the Judicial Magistrate Court No.II, Sattur

b) he will produce the said vehicle before the Court as and when summoned to produce the same;

c) no major alteration excepting the necessary repairs to make the vehicle road worthy shall be made, and

d) he will produce the vehicle before the Court if any confiscation order is passed.

Sd/-

Assistant Registrar (CS-I)

/True copy/

Sub Assistant Registrar

To

1. The Inspector of Police,
Sattur Town Police Station,
Virudhunagar District.



2.The Judicial Magistrate No.II, Sattur.

3.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

+1cc to M/S.P.KALAYARASI BHARATHI,Advocate,SR. 77074

CrI.R.C.(MD) No.709 of 2017
06.09.2017

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KK/SV MMS/SAR 3/18.09.2017/3P- 5C