

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT**

DATED:13.10.2017

CORAM:

WEB COPY

**THE HONOURABLE MR.JUSTICE A.M.BASHEER AHAMED****Cr1.RC(MD)No.754 of 2017****[Orders Reserved on 11.10.2017]**

G.Eswaran : Petitioner / Petitioner

Vs.

State Rep.by its  
The Sub Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.  
(Crime No.193 of 2017)

: Respondent / Complainant

**Prayer:** Revision is filed under Section 397(3) r/w 401 of Cr.P.C., praying to call for the records of the learned District Munsif Court, Manamadurai, Sivagangai District in Cr.M.P.No.2722 of 2017, dated 08.08.2017 and set aside the order passed against the petitioner.

For Petitioner : Mr.S.P.Prabakaran.

For Respondent : Mr.T.Mohan,  
Additional Public Prosecutor.**O R D E R**

This Criminal Revision Case has been filed praying praying to set aside the order passed by the learned District Munsif, Manamadurai, Sivagangai District in Cr.M.P.No.2722 of 2017, dated 08.08.2017.

2. The matter is taken up for final disposal at the admission stage itself with the consent of the learned counsels appearing for the respective parties.

3. The petitioner claims that he is the owner of the seized JCB vehicle without Registration Number to the learned Additional District Munsif-cum-Judicial Magistrate, Manamadurai, Sivagangai District, in Crime No.193 of 2017 registered by the respondent Police, under Section 379 of IPC., and Section 21(4) of Mines and Minerals (Development and Regulation) Act, 1957. The JCB vehicle having no Registration Number, which is said to be used in quarrying sand illegally produced in Form No.95.



4. The petitioner states that Registration Number of the seized and remanded JCB is TN-63-H-9860, for which the Certificate of Registration stands in the name of the petitioner. The petitioner filed Cr.M.P.No.2722 of 2017, before the learned Judicial Magistrate, Manamadurai, claiming interim custody of the vehicle, as owner of the vehicle, and the same was dismissed after hearing the objections raised by the respondent by the learned Magistrate, Manamadurai in its order, dated 08.08.2017.

5. Aggrieved by the order of dismissal, the present Criminal Revision is filed to call for the records in Cr.M.P.No.2722 of 2017, dated 08.08.2017, on the file of the learned Additional District Munsif-cum-Judicial Magistrate and set aside the same.

6. The counsel appearing for the Revision Petitioner would submit that R.C.Book of the vehicle bearing Registration No.TN-63-H-9860 is in custody of the 'Sriram Transport Finance Company Limited' because that the vehicle has been brought under instalment of finance and the vehicle owner has not involved in the offence committed; that the livelihood of the owner depends upon the vehicle; that the vehicle is exposed to sun and rain and therefore, the condition of the vehicle is deteriorating day-by-day and as a result, the petitioner would be put into great hardship and irreparable loss, as the vehicle is the sole source of income for his family and the reasons assigned by the Court below in dismissing the petition is not sustainable and is also liable to be set aside. The petitioner has also produced a copy of the FIR in Crime No. 193 of 2017; a copy of the Certificate of Registration of the vehicle viz., JCB, bearing Registration No.TN-63-H-9860 and also insurance certificate of the vehicle.

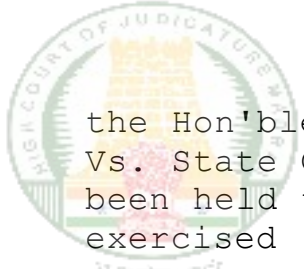
7. The learned Additional Public Prosecutor appearing for the respondent has not raised any serious objection, but reiterates the same contention raised before the Court below.

8. Perused the materials available on record. Heard and considered the rival submissions made on either side.

9. Admittedly, the JCB vehicle without having any Registration Number was seized and remanded by the respondent to the concerned Judicial Magistrate Court in P.R.No.135 of 2017. The petitioner claims interim custody of the said vehicle, as owner, by filing the copy of the Registration Certificate of the vehicle viz., JCB, bearing Registration No.TN-63-H-9860 and also the Certificate of Insurance of the said vehicle for the period from 11.10.2017 to 10.10.2018. There is no rival claim before the Court below in respect of the said seized vehicle.

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

10. At this juncture, this Court is constrained to incorporate the relevant guidelines and principles laid down by



the Hon'ble Apex Court in the Judgment in Sunderbhai Ambalal Desai Vs. State Of Gujarat reported in (AIR 2003 SC 638) in which it has been held that "the powers under Section 451 of Cr.P.C., should be exercised expeditiously and judicially. It would serve various purposes viz., (i) owner of the vehicle would not suffer because of its remaining unused or by its misappropriation; (ii) Court or Police would not be required to keep the articles in safe custody; (iii) If the proper panchanama before handing over the possession of the vehicle is prepared, that can be used in evidence instead of its production before the Court during trial (iv) If necessary, evidence could also be recorded describing the nature of the property in detail and the jurisdiction of the Court to record evidence should be exercised promptly so that there may not be further chance of tampering with the articles."

11. It is of no use to keep such seized vehicle at the Police Station or Court for a long period, after the remand. In any case, before handing over the possession of such vehicle, appropriate photographs of the said vehicle should be taken and detailed panchanama should be prepared and should be kept in case records. The assigned reasons for dismissal of the claim of the petitioner in respect of the seized vehicle for interim custody, without verifying the details of R.C.Book relating to TN-63-H-9860 with the details found in the seized and remanded JCB vehicle, which is in custody of the Court having no registration number in respect of the Engine Number and Chassis Number etc.,

12. The petitioner has admitted that the original certificate of Registration relating to the vehicle bearing Registration No. TN-63-H-9860, is in the custody of 'Sriram Transport Finance Company Limited', Karaikudi, under hypothecation of the said vehicle from 27.08.2013, as mentioned in the copy of the Registration Certificate produced by the petitioner in this Revision.

13. In the above stated circumstances, this Court is inclined to allow this revision by setting aside the impugned dismissal, dated 08.08.2017, passed in Cr.M.P.No.2722 of 2017 by the learned Judicial Magistrate, Manamadurai on the following terms:-

(i). The learned Judicial Magistrate, Manamadurai, is directed to hand over the seized and remanded vehicle viz., JCB, having no registration number to the petitioner, after verifying and tallying the chassis number, engine number and other details of the seized vehicle with the original certificate of the Registration No. TN-63-H-9860, as claimed by the petitioner to be produced on summons from the 'Sriram Transport Finance Company Limited', Karaikudi, No.270, College Road, Sekkalai, Karaikudi.

<https://hcservices.ecourts.gov.in/hcservices>  
The petitioner is directed to execute a bond for Rs.3,00,000/- (Rupees Three Lakhs only) in favour of the learned Judicial Magistrate, Manamadurai.



(iii). Appropriate Photographs in different angles of the said vehicle should be taken, at the cost of the petitioner herein.

(iii). Detailed Panchanama should be prepared before handing over the possession of the remanded vehicle to the petitioner herein.

(iv). The authenticated copy of summoned Original Certificate of Registration is to be kept along with the case records.

(v) The petitioner shall not sell or alter the vehicle in any manner, while he is in custody of the said vehicle.

(vi). The petitioner should produce the vehicle, as and when required by the concerned Court.

14. In the result, this Criminal Revision Petition is allowed on the above terms.

Sd/-

Assistant Registrar(CS-I)

/True Copy/

Sub Assistant Registrar

To

1. The Judicial Magistrate,  
Manamadurai, Sivagangai District.
2. The Sub Inspector of Police,  
Manamadurai Police Station,  
Sivagangai District.
3. The Additional Public Prosecutor,  
Madurai Bench of Madras High Court, Madurai.
4. The Record Keeper,  
Criminal Record Section  
Madurai Bench of Madras High Court.

+1cc to M/S.S.P.PRABAKARAN, Advocate SR.No.82856.

Orders made in  
Crl.RC(MD)No.754 of 2017  
13.10.2017