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BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 27.09.2017

CORAM :

THE HONOURABLE MR.JUSTICE M.V.MURALIDARAN

Crl.R.C(MD)No.757 of 2017

Ayyappan

.. Petitioner

Vs.

The State,

Rep. by Sub-Inspector of Police,

Irukkangudi Police Station,

Virudhunagar District.

.. Respondent

(Crime No.166 of 2017)

Prayer: Criminal Revision Case is filed under Sections 397 and 401 of Cr.P.C. to call for the records from the Learned Judicial Magistrate No.II, Sattur, in Crl.M.P.No.4584 of 2017 dated 06.09.2017 and set aside the same and consequently direct the Learned Judicial Magistrate No.II, Sattur to grant interim custody of vehicle viz., Tipper Lorry, bearing its Registration No.TN 22 AQ 8046 to the petitioner.

For Petitioner : Mr.M.Solaisamy

For Respondent : Mr.K.Ausarasan

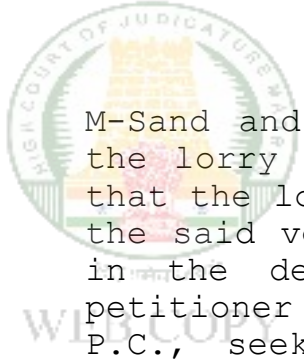
Government Advocate(Crl.Side)

O R D E R

This Criminal Revision Case has been filed to call for the records from the Learned Judicial Magistrate No.II, Sattur, in Crl.M.P.No.4584 of 2017 dated 06.09.2017 and set aside the same and consequently direct the Learned Judicial Magistrate No.II, Sattur to grant interim custody of vehicle viz., Tipper Lorry, bearing its Registration No.TN 22 AQ 8046 to the petitioner.

2.I heard the learned counsel appearing for the petitioner and the learned Government Advocate (Criminal Side) appearing on behalf of the State.

3.The learned counsel appearing for the petitioner would submit that the petitioner is the owner of a Tipper Lorry bearing its Registration No. TN 22 AQ 8046. The vehicle is used by him to carry



M-Sand and gravel. But on 05.08.2017 the respondent police seized the lorry as if the lorry involved in sand theft. It is contended that the lorry never involved in any such offence. It is stated that the said vehicle was kept to be exposed to sun and rain, resulting in the deterioration of condition day by day. Therefore, the petitioner has filed a petition under Sections 457 and 451 of Cr P.C., seeking for interim custody of the vehicle. The Learned Judicial Magistrate No.II, Sattur, dismissed the petition. Challenging the same, the present Criminal Revision Case has been filed.

4.The Learned Government Advocate (Criminal Side), appearing for the State would submit that the said lorry has involved in illegal mining and the case was registered against the petitioner and another, in Crime No.166 of 2017, under Sections 379 of IPC, r/w Section 21(1) of Mines and Minerals (D & R) Act.

5.Considering the facts and circumstances of the case, this Court is inclined to grant the relief of return of vehicle to the petitioner as interim custody and hence, the order passed by the Learned Judicial Magistrate No.II, Sattur in CrI.M.P.No.4584 of 2017 dated 06.09.2017 is set aside. The interim custody of the vehicle viz., Tipper Lorry, bearing its Registration No.TN 22 AQ 8046, which was seized by the respondent police in Crime No.166 of 2017, on the file of the respondent police, is directed to be given to the petitioner on the following conditions:

i. The petitioner shall produce the proof of ownership of the vehicle.

ii. The petitioner shall execute a bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with two sureties to the satisfaction of Learned Judicial Magistrate No.II, Sattur.

iii. The petitioner shall surrender the R.C. book and Learned Judicial Magistrate No.II, 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 accomplishment of the purpose, the same should be returned to the Court.

iv. The petitioner shall also file an affidavit of undertaking before the Learned Judicial Magistrate No.II, Sattur to the effect that:

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

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

<https://hcservices.ecourts.gov.in/hcservices> major alteration excepting the necessary repairs to make the vehicle road worthy shall be made.



6.The Criminal Revision Case stands allowed in the above terms.

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/True Copy/

Sd/-
Assistant Registrar (CS-II)

Sub Assistant Registrar

To

1.The Judicial Magistrate No.II,
Sattur.

2.The Sub-Inspector of Police,
Irukkangudi Police Station,
Virudhunagar District.

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

+1cc to Mr.M.SOLAISAMY Advocate in SR. No. 81304

SKN/VSA

JS/SKN.RSK/SAR.2/27.11.2017/3P-5C

Cr1.R.C (MD) No.757 of 2017
27.09.2017