

**BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT****DATED: 05.12.2017****CORAM:****THE HONOURABLE MR. JUSTICE A.M.BASHEER AHAMED****Cr1.R.C. (MD) No. 901 of 2017**

Pandir @ Muthupandian

... Petitioner

Vs.

The State Rep.by
The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District.
(Crime No.338 of 2017)

... Respondent

PRAYER: The Petition filed under Section 397 r/w 401 of Cr.P.C. to set aside the order passed in Cr.M.P.No.5327 of 2017 by the Judicial Magistrate No.II, Virudhunagar, dated 07.11.2017 and order interim custody of the lorry bearing Registration No.TN-65-D-5995 seized by the respondent on 23.09.2017 in connection with his Crime No.338 of 2017 to the petitioner.

For Petitioner	: Mr.T.Lenin Kumar
For Respondent	: Mr.C.Mayilvahana Rajendren, APP.

ORDER

This Criminal Revision case has been filed to set aside the order passed in Cr.M.P.No.5327 of 2017 by the Judicial Magistrate No.II, Virudhunagar, dated 07.11.2017 and also for interim custody of the lorry bearing registration No.TN-65-D-5995 seized by the respondent on 23.09.2017 in connection with the case in Crime No.338 of 2017 to the petitioner.

2.The learned counsel for the petitioner is present. Mr.C.Mayilvahana Rajendren, Additional Public Prosecutor takes notice for the respondent herein. Heard at the admission stage itself.

3.The learned counsel for the petitioner submitted that the petitioner herein is the owner of the tipper lorry bearing registration No.TN-65-D-5995, which was remanded in P.R.No.248 of 2017 before the learned Judicial Magistrate No.II, Virudhunagar for the offences punishable under Section 379 of IPC & Section 21 (1) (5) of Mines & Minerals Act in Crime No.338 of 2017 registered by the respondent Police. The petitioner herein is arrayed as



fifth accused and his above vehicle is said to be involved in commission of offence and the same is now with the respondent for safe custody and there is no rival claim over the seized vehicle. The said vehicle is kept in open space exposed to sun light and rain and also as unused and idle.

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4. Earlier, the very same vehicle was seized in Crime No.266 of 2017 under Section 379 of IPC & Section 21 (1) (5) of Mines & Minerals Act by the respondent Police and it was also released on interim custody by the learned Judicial Magistrate No.II, Virudhunagar to the petitioner herein.

5. The learned counsel for the petitioner submitted that the respondent foisted a false case by including the vehicle belonging to the petitioner herein. Therefore, the petitioner preferred a petition in Cr.M.P.No.5327 of 2017 for return of the said vehicle on interim custody during the pendency of the investigation.

6. The learned Additional Public Prosecutor appearing for the respondent would submit on instructions that he has no serious objection for ordering interim custody of the said vehicle. Hence considering the guidelines of the Hon'ble Apex Court reported in **Sunderbhai Ambalal Desai Case (2003 (1) CTC 175)**, this Court is inclined to set aside the impugned order passed by the learned Judicial Magistrate No.II, Virudhunagar in Cr.M.P.No.5392 of 2017, dated 07.11.2017 and this Criminal Revision is allowed on the following terms.

i. The learned Judicial Magistrate No.2, Virudhunagar is directed to hand over the seized vehicle on interim custody to the petitioner herein on execution of personal bond for a sum of Rs.3,00,000/-

ii. The seized vehicle has to be photographed on different angle on the cost of the petitioner herein and kept it along with records, after getting the signature of the petitioner in the said photographs.

iii. The registered certificate of the vehicle should be produced before the learned Judicial Magistrate No.II, Virudhunagar.

iv. The vehicle should not be sold or altered or changed till the final order is passed in this case by the concerned Magistrate.

v. The petitioner is directed to produce the vehicle as and when required by the Court concerned.

Sd/-

Assistant Registrar(CS-III)

/True Copy/



To

1. The Judicial Magistrate No.II,
Virudhunagar

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2. The Inspector of Police,
Kariapatti Police Station,
Virudhunagar District.
(Crime No.338 of 2017)

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

+1cc to Mr.T.Lenin Kumar, Advocate sr.No.90959

GNS

VB/SV/MMS/SAR2/12/12/2017/3P/5C

Cr1.R.C. (MD) No.901 of 2017

05.12.2017